



LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

AGENDA - REGULAR MEETING

Date: May 5, 2004

Time: Closed Session 5:15 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Actual litigation: Government Code §54956.9(a); one case; Sanchez v. City of Lodi, et al., San Joaquin County Superior Court, Case No. CV 022301 (HR)
- b) Conference with Human Resources Director, Joanne Narloch, regarding Fire Mid-Management (unrepresented) pursuant to Government Code §54956.6
- c) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- d) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- e) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- f) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- g) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

- A. Call to Order / Roll call
- B. Invocation – Pastor Steve Newman, First Baptist Church
- C. Pledge of Allegiance

D. Presentations

- D-1 Awards – None
- D-2 Proclamations
 - a) Veteran Appreciation Month
 - b) Lodi Family Health and Safety Fair
 - c) National Public Works Week (PW)
 - d) Peace Officer Memorial Month (PD)
- D-3 Presentations
 - a) Presentation regarding Celebration on Central (CM)

E. Consent Calendar (Reading; comments by the public; Council action)

- E-1 Receive Register of Claims in the amount of \$2,544,593.25 (FIN)
- E-2 Approve minutes (CLK)
 - a) March 17, 2004 (Special Meeting)
 - b) March 17, 2004 (Regular Meeting)
 - c) April 7, 2004 (Regular Meeting)
 - d) April 19, 2004 (Special Joint meeting with the Lodi Arts Commission)
- Res. E-3 Adopt resolution authorizing the purchase of replacement photocopier for Community Development Department (\$7,298.99) (CD)
- Res. E-4 Adopt resolution awarding the purchase of steel streetlight standards (\$41,137.93) (EUD)
- Res. E-5 Adopt resolution awarding the purchase of polemount and padmount transformers (\$75,819.37) (EUD)
- Res. E-6 Adopt resolution awarding the purchase of wood utility poles (\$12,382.63) (EUD)
- Res. E-7 Adopt resolution authorizing donation of used police equipment to San Joaquin Delta College Peace Officer Standards and Training Academy (PD)
- Res. E-8 Adopt resolution approving improvement agreement for the public improvements of 2111 West Kettleman Lane (APN 027-410-21) (PW)
- Res. E-9 Adopt resolution authorizing City Manager to execute a professional services agreement with Padilla & Associates, Inc., for Disadvantaged Business Enterprise Program Consulting Services (\$6,300) (PW)
- Res. E-10 Adopt resolution approving Memorandum of Understanding between City of Lodi and Lodi Professional Firefighters (HR)
- Res. E-11 Adopt resolution approving destruction of certain Finance Department records (FIN)
- E-12 Authorize transportation service to Micke Grove Park for the Head Start Program on May 12, 2004, upon approval from the San Joaquin Regional Transit District (PW)
- Ord. E-13 Re-introduce ordinance amending Lodi Municipal Code Title 13 – Public Services – by adding (Introduce) Chapter 13.14, "Stormwater Management and Discharge Control," relating to Stormwater (CA)

F. Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

G. Public Hearings

- Res. G-1 Public hearing to consider resolution adopting engineer's report, confirming assessments, overruling protests and declaring assessment ballot results, and annexing territory to a maintenance assessment district and forming Zone 3 and Zone 4 (Millsbridge II Zone 3 and Almond North Zone 4 Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1) (PW)

H. Communications

- H-1 Claims filed against the City of Lodi
a) Farr Associates, date of loss 09/03 to current
b) Envision Law Group, LLP, date of loss unstated
- H-2 Reports: Boards/Commissions/Task Forces/Committees – None
- H-3 Appointments
a) Post for expiring terms and vacancies on the Greater Lodi Area Youth Commission (CLK)
- H-4 Miscellaneous – None

I. Regular Calendar

- Res. I-1 Adopt resolution authorizing the City Manager to execute electric utility rate contracts for three commercial/industrial customers—Kubota Tractor Corporation, Larry Methvin Installation, and Lodi Memorial Hospital (EUD)
- I-2 Approve plans and specifications and authorize advertisement for bids for installation of streetlights on Phase IV of the Streetlight Completion Project and authorize the transfer of funds for the project (\$980,000) (EUD)
- Res. I-3 Adopt resolution approving traffic safety improvements for Stockton Street from 300 feet south of Almond Drive to Kettleman Lane and appropriate funds (\$8,000) (PW)
- Res. I-4 Adopt resolution approving City participation in the Ham Lane fence construction (Cardinal Street to 1,100 feet south of Cardinal Street) and appropriating funds (\$1,000) (PW)
- Res. I-5 Adopt resolution approving specifications and authorizing advertisement for bids for compressed natural gas street sweeper for the Street Division and authorizing the City Manager to accept or reject bids, award the contract, and appropriate funds (\$200,000) (PW)
- I-6 Updates from Mayor Larry Hansen regarding the following issues: (CC)
 - Barger & Wolen audit of Envision Law Group's billings
 - status of recruitment process for new City Attorney
 - progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation

J. Ordinances – None

K. Comments by the City Council Members on non-agenda items

L. Comments by the City Manager on non-agenda items

M. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Susan J. Blackston
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Veteran Appreciation Month

MEETING DATE: May 5, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Mayor Hansen present a proclamation proclaiming the month of May 2004 as "Veteran Appreciation Month" in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation proclaiming the month of May 2004 as "Veteran Appreciation Month" in the City of Lodi. Brad Jones, Veteran Representative with the Employment Development Department, will be at the meeting to accept the proclamation.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Lodi Family Health and Safety Fair

MEETING DATE: May 5, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Mayor Hansen present a proclamation proclaiming Saturday, May 22, 2004, as "Lodi Family Health and Safety Fair" day in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation proclaiming Saturday, May 22, 2004, as "Lodi Family Health and Safety Fair" day in the City of Lodi. Mom's Night Out is coordinating the Lodi Family Health and Safety Fair in conjunction with Emanuel Lutheran Church to provide a free venue for vendors and citizens to share information regarding family health and safety and to harbor a rejuvenated sense of community. Event coordinator, Jan Alexander, will be at the meeting to accept the proclamation.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: National Public Works Week Proclamation

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That Mayor Hansen present a proclamation proclaiming the week of May 16-22, 2004, as "National Public Works Week".

BACKGROUND INFORMATION: Public Works Week is a national event recognizing the importance and extent of the community services provided by public works departments. This year's theme is "24/7: Focused on Our Community". The ongoing focus on our community is shown by the men and women in each department who plan, design, build and maintain our water, wastewater, drainage and street systems, City buildings, and fleet, and who are responsible for the City's transit and solid waste services. A representative of the Public Works Department will be present to accept the proclamation.

FUNDING: None required.

Richard C. Prima, Jr.
Public Works Director

Prepared by Rebecca Areida, Management Analyst

RCP/RA/pmf

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation of Peace Officer Memorial Month Proclamation

MEETING DATE: May 5, 2004

PREPARED BY: JERRY J. ADAMS, CHIEF OF POLICE

RECOMMENDED ACTION: That the City Council proclaims the Month of May, 2004, to be known as Peace Officer Memorial Month throughout the City of Lodi.

BACKGROUND INFORMATION: The Lodi Police Department requests that the Council make this proclamation in keeping with such tributes at the state and national level. This year, the week of May 9 through May 15 is designated National Police Week, while May 7 is the date of the California Peace Officer Memorial Ceremony. These ceremonies are held annually to honor the memory of over 15,000 law enforcement officers who have lost their lives in the line of duty throughout the United States. Of the 145 line of duty deaths in 2003, California's loss was 17 officers.

Members of the Lodi Police Department, led by it's Honor Guard, are attending ceremonies in three venues: The Lodi Police Peace Officer Memorial Service at Temple Baptist Church on May 2, the San Joaquin County Memorial at Stockton Police Headquarters on May 5, and the California Memorial Ceremony in Sacramento on May 7. Also on May 5, a ceremony will be held at the graveside of Officer Rick Cromwell, the only Lodi Police Officer ever lost in the line of duty.

An inscription at the California State Memorial reads: "Go, stranger, and tell the (people) that we lie here in obedience to their laws." We urge the City Council to join in this message, honoring our fallen Peace Officers.

FUNDING: None

Jerry J. Adams
Chief of Police

cc: City Attorney

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation Regarding Celebration on Central

MEETING DATE: May 5, 2004

PREPARED BY: Janet L. Hamilton, Management Analyst

RECOMMENDED ACTION: None.

BACKGROUND INFORMATION: The fifth annual Celebration on Central, a collaboration between the Community Partnership for Families of San Joaquin and the City of Lodi, will be held Sunday, May 16th, noon to 3 p.m. The event, a health and safety fair, targets families on Lodi's east side. The event attracts an estimated 5000 people. Food, donated by the Greater Stockton Area Food Bank and the Salvation Army and prepared by the Mexican-American Lions Club and First Baptist Church, will be free to all guests. Children's activities, health screenings, consumer information, and entertainment comprise the event.

FUNDING: Funded by donations.

Vicky McAthie, Finance Director

Janet L. Hamilton
Management Analyst

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated April 20, 2004 in the Amount of \$2,544,593.25

MEETING DATE: May 5, 2004

PREPARED BY: Finance Technician

RECOMMENDED ACTION: That the City Council receive the attached Register of Claims. The disclosure of the PCE/TCE expenditures are shown as a separate item on the Register of Claims.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$2,544,593.25 dated April 20, 2004, which includes PCE/TCE payments of \$769.43.

FUNDING: As per attached report.

Vicky McAthie, Finance Director

VM/kb

Attachments

APPROVED: _____
H. Dixon Flynn, City Manager

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As of Thursday	Fund	Name	Council Report	Date Amount	- 04/20/04
04/08/04	00100	General Fund		572,546.63	
	00103	Repair & Demolition Fund		13,238.00	
	00120	Vehicle Replacement Fund		2,490.13	
	00160	Electric Utility Fund		19,815.69	
	00161	Utility Outlay Reserve Fund		8,139.88	
	00164	Public Benefits Fund		16,963.29	
	00170	Waste Water Utility Fund		20,631.39	
	00171	Waste Wtr Util-Capital Outlay		67,831.20	
	00172	Waste Water Capital Reserve		444,455.11	
	00180	Water Utility Fund		304,181.28	
	00181	Water Utility-Capital Outlay		1,661.45	
	00210	Library Fund		8,717.89	
	00211	Library Capital Account		301.16	
	00234	Local Law Enforce Block Grant		182.23	
	00235	LPD-Public Safety Prog AB 1913		476.21	
	00270	Employee Benefits		37,541.88	
	00300	General Liabilities		1,025.46	
	00310	Worker's Comp Insurance		24,167.77	
	00320	Street Fund		278.06	
	00325	Measure K Funds		96,483.40	
	00327	IMF(Local) Streets Facilities		3,930.77	
	00332	IMF(Regional) Streets		3,019.35	
	00334	OTS-Off of Traffic Safety Grnt		2,988.40	
	01211	Capital Outlay/General Fund		68,348.73	
	01212	Parks & Rec Capital		1,186.98	
	01250	Dial-a-Ride/Transportation		4,401.01	
	01410	Expendable Trust		127,242.44	
Sum				1,852,245.79	
	00183	Water PCE-TCE		42.43	
Sum				42.43	
Total for Week					
Sum				1,852,288.22	

Accounts Payable

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- 04/20/04

As of Thursday	Fund	Name	Council Report	Date Amount
04/15/04	00100	General Fund		421,646.90
	00102	Facade Program		60,449.96
	00103	Repair & Demolition Fund		320.00
	00123	Info Systems Replacement Fund		151.92
	00160	Electric Utility Fund		27,159.05
	00161	Utility Outlay Reserve Fund		8,226.53
	00164	Public Benefits Fund		3,675.38
	00170	Waste Water Utility Fund		11,940.39
	00172	Waste Water Capital Reserve		39.54
	00180	Water Utility Fund		11,970.42
	00181	Water Utility-Capital Outlay		393.94
	00210	Library Fund		12,766.44
	00211	Library Capital Account		116.37
	00234	Local Law Enforce Block Grant		936.28
	00270	Employee Benefits		14,640.85
	00300	General Liabilities		4,413.95
	01211	Capital Outlay/General Fund		35,200.49
	01212	Parks & Rec Capital		35,835.93
	01250	Dial-a-Ride/Transportation		3,861.30
	01410	Expendable Trust		37,832.39
Sum				691,578.03
	00183	Water PCE-TCE		727.00
Sum				727.00
Total for Week				
Sum				692,305.03

Council Report for Payroll

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Date -

04/20/04

Payroll	Pay Per Date	Co	Name	Gross Pay
-	-	-	-	-
Regular	04/11/04	00100	General Fund	787,775.99
		00160	Electric Utility Fund	150,137.84
		00161	Utility Outlay Reserve Fund	2,483.52
		00164	Public Benefits Fund	4,878.41
		00170	Waste Water Utility Fund	62,253.52
		00180	Water Utility Fund	7,659.80
		00210	Library Fund	31,682.30
		00235	LPD-Public Safety Prog AB 1913	2,397.88
		01250	Dial-a-Ride/Transportation	2,805.13
Pay Period Total:				
Sum				1,052,074.39



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) March 17, 2004 (Special Meeting)
b) March 17, 2004 (Regular Meeting)
c) April 7, 2004 (Regular Meeting)
d) April 19, 2004 (Special Joint meeting with the Lodi Arts Commission)

MEETING DATE: May 5, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council approve the following minutes as prepared:
a) March 17, 2004 (Special Meeting)
b) March 17, 2004 (Regular Meeting)
c) April 7, 2004 (Regular Meeting)
d) April 19, 2004 (Special Joint meeting with the Lodi Arts Commission)

BACKGROUND INFORMATION: Attached are copies of the subject minutes, marked Exhibits A through D.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

Attachments

APPROVED: _____
H. Dixon Flynn, City Manager

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 17, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of March 17, 2004, was called to order by Mayor Hansen at 5:33 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land (arrived at 5:55 p.m.), and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. CLOSED SESSION

At 5:33 p.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following matters:

- B-1 Actual Litigation: Government Code §54956.9(a); one case; People v. Randtron (Third District Court of Appeal, docket No. 3 Civ. C037445)
- B-2 Actual Litigation: Government Code §54956.9(a); one case; People v. Randtron (Third District Court of Appeal, docket No. 3 Civ. C038921)
- B-3 Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, et al. v. Unigard Insurance Company and Unigard Security Insurance Company (Third District Court of Appeal, docket No. 3 Civ. C039076)
- B-4 Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, et al. v. Unigard Insurance Company and Unigard Security Insurance Company (Third District Court of Appeal, docket No. 3 Civ. C040683)

The Closed Session adjourned at 7:05 p.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:11 p.m., Mayor Hansen reconvened the Special City Council meeting, and Interim City Attorney Schwabauer disclosed that no reportable action was taken.

D. ADJOURNMENT

There being no further business to come before the City Council, the Special Closed Session meeting was adjourned at 7:11 p.m. to the Regular City Council meeting of Wednesday, March 17, 2004.

ATTEST:

Susan J. Blackston
City Clerk

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 17, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of March 17, 2004, was called to order by Mayor Hansen at 5:33 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land (arrived at 5:55 p.m.), and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Actual litigation: Government Code §54956.9(a); one case, Smalley v. City of Lodi et al., San Joaquin County Superior Court, Case No. CV010730

C-3 ADJOURN TO CLOSED SESSION

At 5:33 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:05 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:11 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions:

In regard to Item C-2 (a), no reportable action was taken.

In regard to Item C-2 (b), no reportable action was taken.

In regard to Item C-2 (c), settlement direction was given.

In regard to Item C-2 (d), settlement direction was given.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of March 17, 2004, was called to order by Mayor Hansen at 7:11 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Bill Cummins, Bear Creek Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Edwin Cotton, representing the Lodi Boys and Girls Club, proclaiming the week of March 29 – April 2, 2004, as “National Boys and Girls Club Week” in the City of Lodi.

D-2 (b) Mayor Hansen presented a proclamation to Thomas Rut, representing the Northern California Regional Group of the Model A Ford Club, in celebration of the Club's 42nd Annual Roundup Days.

D-2 (c) Mayor Hansen presented a proclamation to Steve Dutra, Park Superintendent; George Bradley, Street Superintendent; and Ray Fye, Tree Operations Supervisor, for Arbor Day to be celebrated at Lodi Lake Park on April 3.

D-3 (a) Bob Bechill, President of the Lodi Area All Veterans Plaza Foundation, presented a check in the amount of \$10,000 to Mayor Hansen, accepting on behalf of the City, for the quarterly payment on loan from the City of Lodi.

D-3 (b) Jerry Dankbar, President of the Maintenance Superintendents Association North Central Valley Chapter, presented the 2003 Superintendent of the Year Award to City of Lodi Street Supervisor Dave Bender.

D-3 (c) Joseph Wood, Community Improvement Manager, made a presentation to the City Council regarding the 2004 Spring Cleanup activities.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Beckman, Land second, unanimously approved the following items hereinafter set forth except those otherwise noted:

E-1 Claims were approved in the amount of \$1,972,812.84.

E-2 The minutes of February 18, 2004 (Regular Meeting), February 24, 2004 (Shirtsleeve Session), and March 2, 2004 (Shirtsleeve Session) were approved as written.

E-3 Approved the plans and specifications and authorized advertisement for bids for Water/Wastewater Replacement Program Project No. 2.

E-4 Adopted Resolution No. 2004-38 approving the plans and specifications and authorizing advertisement for bids for the standby generator at Well 22 and authorizing the City Manager to award the contract up to \$150,000.

E-5 Adopted Resolution No. 2004-39 approving the specifications and authorizing advertisement for bids for low-voltage fuses and fuse holders for the Electric Utility Department and authorizing the City Manager to approve the purchase up to \$20,000.

E-6 Adopted Resolution No. 2004-40 authorizing the City Manager to award the purchase of a Fiber Optic Control Building to the low bidder, E-3 Systems, of Union City, in the amount of \$32,094.64.

E-7 Adopted Resolution No. 2004-41 authorizing the purchase of 35 ballistic vests from LC Action Police Supply, of San Jose, using a combination of Santa Clara County contract prices for Threat Level II vests and quoted prices for Threat Level IIIA vests totaling \$25,757.64.

- E-8 Adopted Resolution No. 2004-42 authorizing the purchase of 68 chairs from Warden's Outlet Center, of Modesto, in the amount of \$8,270, for the new Police Facility Community Room.
- E-9 Accepted the improvements under the "Katzakian Park Booster Pump Project" contract.
- E-10 Adopted Resolution No. 2004-43 accepting a portion of the Improvements in Almondwood Estates, Tract No. 3273.
- E-11 Adopted Resolution No. 2004-44 approving the final map, improvement agreement, and water rights agreement for Millsbridge II, Tract No. 3343, and directed the City Manager and City Clerk to execute the improvement agreement, water rights agreement, and final map on behalf of the City.
- E-12 Adopted Resolution No. 2004-45 authorizing the City Manager to execute Letter of Agreement No. 04-SNR-00637 between the United States of America Department of Energy Western Area Power Administration and the City of Lodi to provide Shasta Rewinds and daily excess capacity and associated energy.
- E-13 "Adopt resolution approving a lease agreement between City of Lodi and Spare Time, Inc., dba Twin Arbor Athletic Club, for use of pool at Twin Arbor Athletic Club facilities for the period of May 31, 2004 to July 25, 2004" was ***pulled from the agenda pursuant to staff's request.***
- E-14 "Adopt resolution approving the job specification and salary range for the position of Fire Administrative Captain and provide authorization to fill the position" was ***pulled from the agenda pursuant to staff's request.***
- E-15 Adopted Resolution No. 2004-46 authorizing the City Manager to appropriate a Public Benefits Program grant in the amount of \$6,178 to Fairmont Seventh-Day Adventist Church for a demand-side management project.
- E-16 Authorized advertisement for transportation services for Leadership Lodi's Agriculture, Water, and Environment Day and authorized use of buses should no alternate provider be willing to perform the service.
- E-17 Adopted Resolution No. 2004-47 reallocating \$20,962.07 of unobligated funds from various Community Development Block Grant projects to the 98-07 Elm Street Parking Lot project as detailed below:

Reallocate from:

Project No.	Project Title	Available Funds	Account No.
LOD 96-05	Eastside Alley Lighting	\$ 5,000.00	452501
LOD 97-1.1	City Park Improvements ADA	\$ 1,125.67	453761
LOD 97-1.3	Lodi Lake Beach Feature	\$ 312.21	453763
LOD 97-1.4	Recreation Office Remodel	\$ 4,401.07	453764
LOD 97-1.5	Lodi Lake Handicapped Access	\$ 2,182.88	453765
LOD 97-1.6	Blakely Park Improvements	\$ 1,508.13	453766
LOD 97-1.7	Kofu/Armory Park Ramps	\$ 6,432.11	453767
TOTAL		\$20,962.07	

Reallocate to:

LOD 98-07	Elm Street Parking Lot	\$ 1,950.00	454508
Balance after reallocation		\$22,912.07	

- E-18 Adopted Resolution No. 2004-48 of Preliminary Determination and Resolution No. 2004-49 of Intention to Annex Millsbridge II Zone 3 and Almond North Zone 4 to Lodi Consolidated Landscape Maintenance District No. 2003-1; set public hearing and deadline for receipt of ballots for May 5, 2004; and adopted Resolution No. 2004-50 authorizing the City Manager to execute a professional service agreement with Timothy J. Hachman, Attorney at Law, in the amount of \$7,000, and Resolution No. 2004-51 authorizing the City Manager to execute a professional service agreement with Thompson-Hysell Engineers, a Division of the Keith Companies, Inc., in the amount of \$8,500 for services required in support of the annexation.
- E-19 Set public hearing for April 7, 2004, to consider an appeal received from Key Advertising, Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign and a Variance to double the maximum allowable sign area from 480 square feet to 960 square feet to be located at 1251 South Beckman Road.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Doug Wied, representing the Lodi Friends of the Stockton Symphony, invited everyone to the Stockton Symphony's Family Concert on March 20 at Hutchins Street Square.
- Henry Wright, responding to complaints voiced at previous Council meetings regarding Vinewood Dog Park, stated that in the three years he has been using the park he has never seen a dog loose on the street next to the houses. The trash barrel has been relocated so that it is out of surrounding residents' view. Waste bags are now available on the east end of the gate. An education effort of the City's regulations pertaining to dogs has been instituted.
- Frank Severs of the Salvation Army expressed appreciation to Wal-Mart for its donation of clothing, household items, cash grants, and support for the Salvation Army's various fundraising efforts.
- LeAnn Riley was opposed to the City's involvement in limiting large retail businesses in the community; she believed that competition was beneficial and supported the proposed Wal-Mart Supercenter.
- Sara Heberle commented that Wal-Mart contributes to community projects and encourages Americanism. She did not believe that "big-box" stores necessarily drive out small businesses.
- Alice Mathews supported the free enterprise system and favored Wal-Mart for hiring senior citizens and for its low cost and convenience to shoppers.
- Harold Mathews pointed out that the proposed Wal-Mart Supercenter would provide needed jobs and tax revenue to the City.
- Mike Higgins asked that more accountability and justification be provided at the public hearing on April 27 related to increasing the water, sewer, and refuse rates.
- Frieda Parton, Wal-Mart employee, submitted petitions signed by 4,212 people in support of the proposed Wal-Mart Supercenter. She urged Council to oppose any effort to impose size limits on large retail facilities in Lodi.
- Jim Casey stated that he has worked in construction planning and has seen what happens when an ordinance is adopted to keep a business out of an area. Wal-Mart has determined that a Supercenter could be supported by this region in sales. If Lodi does not allow it to be built in the City, it will be constructed in a nearby area. He reminded Council that expensive projects are on the City's priority list and tax revenue from the proposed Wal-Mart Supercenter could help in funding them.
- Nancy Beckman, Executive Director of the Lodi Conference and Visitors Bureau, and Pat Patrick, President and Chief Executive Officer of the Chamber of Commerce, presented the new Lodi Community & Visitors Guide Book. Mr. Patrick noted that the project was financed entirely by the advertisers.

- Barbara Krengel asked Council to consider what low prices mean in a broader sense. She read from the California Farmer, *"Companies representing brands say they cannot raise prices and hold market position with Wal-Mart and other chains. One brand said they would be de-listed by Wal-Mart if they raised prices."* Ms. Krengel noted that Wal-Mart is opening 278 new stores in 2004 and asked where it is leading industry for the future.
- June Gifford pointed out that the proposed Wal-Mart Supercenter would have 100,000 square feet of grocery space selling mostly non-taxable items. She asserted that studies in many communities have shown that Wal-Mart costs cities in services.
- Elizabeth McLaughlin acknowledged that she worked for a local grocery store and believed that the Wal-Mart Supercenter would take away jobs from the community.
- Blain Boschee stated that employees of major retail chains have a standard of living that they would like to continue. He maintained that if Wal-Mart Supercenters are allowed to proliferate in California, it will cause benefits and pay to be decreased for employees of competitors.
- Chris Podesto stated that Wal-Mart is the largest landowner of abandoned buildings in the United States per square foot. He asked what the contingency plans are for the existing Wal-Mart building if it vacates its current location and for empty buildings left by Safeway and other retail stores that may go out of business.

Mayor Hansen disclosed that he and other Council Members have had meetings with the proposed developer, representatives of the Wal-Mart Corporation, unions, and other grocery store managers. He reported that one of the issues discussed was that if Wal-Mart received approval to build a Supercenter it would be conditioned on a reputable tenant taking over its current building.

- Glenn Evans, owner of Food For Less markets, did not see the benefit to the community of a third grocery retailer at the intersection of Lower Sacramento Road and Kettleman Lane. Mr. Evans stated he would strongly consider closing his Lodi store, which employs 130 people, if the Wal-Mart Supercenter was allowed to be built in Lodi. He urged Council to weigh the long-term consequences.
- An unidentified/disguised individual commented that he did not think a Wal-Mart Supercenter would fit in the community. He expressed concern for the potential loss of other businesses.
- Christy Deschamp stated that Wal-Mart is rolling out 40 Supercenters in California at the same time so that no one has an opportunity to evaluate its impact. She recommended that Council wait for the one in Stockton to be constructed before deciding to allow a Supercenter to be built in Lodi.
- William Barrer commended Wal-Mart for its contributions to communities. He felt the store was needed for people on fixed incomes.
- Dean Meier reported that when a Wal-Mart Supercenter was constructed in Orlando, Florida, it resulted in an increase in traffic accidents, property crimes, robberies, and car thefts. He supported size limits on large retail establishments.
- Richard Salton, union representative for Local 588, noted that many people in the audience work for Albertsons, Save Mart, Food For Less, Rite Aide, Raleys, and Safeway stores. He strongly opposed Wal-Mart and its practices. He urged Council to consider the economic impact that a Wal-Mart Supercenter would have on the community and the quality jobs that would be jeopardized.
- Darryl Browman stated that he has been a property owner in Lodi for 14 years and is the developer of the existing Wal-Mart and Target stores in Lodi. His company has made a commitment to buy the existing building from Wal-Mart as a condition to move forward on plans for the Supercenter. He confirmed that the project would not move forward until there was a quality replacement in the vacated building. He recalled that the intersection of Lower Sacramento Road and Kettleman Lane was planned to be four corners of retail.

- Ann Cerney stated that she has been following planning matters in Lodi for the past 40 years. In response to the previous speaker, Ms. Cerney noted that the property was not necessarily designated to be four corners of commercial property. She recalled that when the property was annexed, due to impending changes in sales tax regulations at the time, the existing Council promised that the property would not be developed until there was another update to the City's General Plan.
- Joe Pacino felt that Lodi was already saturated with food stores and did not need a Wal-Mart Supercenter. He stated that Wal-Mart pays a low wage to employees and provides little or no benefits. He suggested that building a school at the proposed site would be more useful to the community.
- Carol Cash expressed support for a Wal-Mart Supercenter in Lodi, noting that the company contributes a great deal to communities. She intimated that opposition being expressed is mainly from union employees.
- Lori McIntosh, managing partner of Lodi Southwest Associates, reported that her partnership bought the property in question in 1992. To correct Ms. Cerney's previous comments, she reported that it was zoned as commercial retail in 1991 – prior to its annexation in 1996.
- Bryan Stamos stated that his company is a cleaning contractor for Wal-Mart. He spoke in favor of a Wal-Mart Supercenter as it would create more jobs and offer lower prices for customers. He believed that the opposition is coming from those who fear competition. He noted that many people have expressed concern that Wal-Mart would cause the demise of "mom and pop" stores; however, no one actually representing a small business has appeared to speak.
- Pam McKowlky stated that she worked for Albertsons in Lodi. She stated that Wal-Mart employees do not receive union benefits, are paid a low salary, and cannot afford to buy homes. Union employees are trying to earn a pension so that they can live comfortably in retirement.

RECESS

At 8:50 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:00 p.m.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the Planning Commission's recommendation of approval to the City Council for a Prezoning for 5952 E. Pine Street; the Prezoning is from San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy Industrial; the request also includes a recommendation that the City Council certify Negative Declaration ND-03-13 as adequate environmental documentation for the project and initiate annexation of the property into the City.

Community Development Director Bartlam reported that this item is to prezone and initiate annexation on about ten acres of property at the far eastern edge of Pine Street. The request is made by property owner Richard Galantine to initiate the prezoning from County Agricultural Urban reserve to M-2, Heavy Industrial, and file the application with the Local Agency Formation Commission (LAFCO) for the annexation. The Planning Commission recommends approval of the request.

Hearing Opened to the Public

- Gordon Meyers stated that he owned property directly south of the ten acres. He asked whether he would be forced to annex into the City. He expressed concern about the negative declaration and annexation of the property in the City at a reduction of prime agricultural ground. He noted that it requires mitigation measures on the impact of the environment, which he believed to be very significant in that area. Referring to the California Environmental Quality Act, Mr. Meyers stated that he felt that his presence at the public hearing exhausts all administrative requirements for further action on his part.

Mr. Bartlam replied that it was the opinion of the LAFCO Executive Officer that Mr. Meyers' property would not have to be annexed into the City in conjunction with Mr. Galantine's request.

Public Portion of Hearing Closed

In response to Council Member Hitchcock, Mr. Bartlam explained that Mr. Galantine does not have a stated intended use for the property at this time, so staff dealt with the environmental document based on the request. Staff believes that the industrial uses that are to north, northeast, and northwest would not be impacted by another industrial zoned property.

In reply to Council Member Land, Mr. Bartlam reported that conversations have taken place with Mokelumne Fire District regarding this matter. They have not expressed any concerns.

MOTION #1 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously adopted Resolution No. 2004-52 entitled, "A Resolution of the Lodi City Council Certifying the Negative Declaration ND-03-13 as Adequate Environmental Documentation for the Prezone and Initiation of Annexation of Property Located at 5952 E. Pine Street, Lodi."

MOTION #2 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously adopted Resolution No. 2004-53 entitled, "A Resolution of the Lodi City Council for Application to the San Joaquin County Local Agency Formation Commission in the Matter of the Galantine Annexation/Reorganization, Including the Detachment of Certain Territory within the Area Proposed for Annexation to the City of Lodi."

MOTION #3 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously introduced Ordinance No. 1745 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Prezoning the Parcel Located at 5952 East Pine Street (APN 049-090-13) from San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy Industrial."

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider redesign concept for GBasin (Pixley Park) and the exchange of properties with GREM, Inc., to allow relocation of C-Basin.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously continued the public hearing to April 7, 2004, to consider redesign concept for GBasin (Pixley Park) and the exchange of properties with GREM, Inc., to allow relocation of C-Basin.

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the Planning Commission's recommendation of approval to the City Council to adopt a Zoning Ordinance amendment adding Chapter 17.58 regarding design standards for large retail establishments.

Mayor Hansen stated that he received approximately 150 e-mails and 60 phone calls from people expressing their opinion on this issue.

Council Member Howard disclosed that she met with the landowner, two representatives of Browman Development, two representatives from Wal-Mart, Jessica Berg with BergDavis Public Affairs, Senior Manager of Wal-Mart Community Affairs Amy Hill, as well as a number of representatives from Food for Less, Save Mart, Safeway, Apple Market, etc.

Council Member Hitchcock disclosed that she met with the landowner, two representatives from Browman Development, four representatives from various grocery stores, and two Wal-Mart representatives.

Community Development Director Bartlam stated that the question of large-scale design was brought to the Planning Commission's attention during the Lowe's project. In December 2003 the Planning Commission directed staff to bring back a set of standards that were specifically related to large-scale retail development. The Commission held a public hearing in January to review the standards. The hearing was continued to February, at which time the Commission approved the Design Standards for Large Retail Establishments as now presented to Council (filed). The standards address any retail center that has a principle building of 25,000 square feet or more. The intent is one of improving the visual quality of retail centers and attempting to "humanize" large buildings. The standards deal with specific architectural requirements, colors and materials, orientation of the building with respect to its placement on the property, its adjacent and required parking, loading, trash areas, and pedestrian and bicycle access both to and on the site. There is a standard for a central community feature that could act as a public space. The standards provide a parking cap of 5 spaces for every 1,000 square feet of retail building space, 15 per 1,000 square feet of restaurant building space, and 6 spaces for every 1,000 square feet of fitness/health club space. The standards require that no more than 50% of the parking provided be in front of the main building and that the main building have multiple entries if it fronts on more than one public street.

Mr. Bartlam noted that the Planning Commission spent most of its deliberation on whether there ought to be a limitation on maximum square footage. The Commission felt that additional discussion, separate and distinct from this recommendation, should take place and have scheduled the topic for its March 24 meeting.

In answer to questions posed by Council Member Land, Mr. Bartlam explained that pad tenants do not have to be concerned with *where* the parking stalls are, but with how many. He emphasized that the design standards are not guidelines (permissive) they are standards (requirements). As the Community Development Director, he does not have administrative flexibility to vary from a standard. The variance process is brought before the Planning Commission.

In reply to inquiries by Council Member Hitchcock, Mr. Bartlam reported that staff chose to use the City of Fort Collins, Colorado, as a basis for the design standards, because its standards were enacted in the mid-1990s and have had an opportunity to be tested. Proposed projects that the design standards would apply to include the Wal-Mart Supercenter and expansions of Raley's and Lakewood Mall. He noted that Target is also considering an expansion. Mr. Bartlam stated that he did not believe size was a design standard issue. He pointed out that several smaller buildings could be constructed side by side, which for all intents and purposes are one building in look and use, but technically many buildings. He contended that with adequate design standards, the size of the building is irrelevant.

Mayor Pro Tempore Beckman believed that the future look and economy of Lodi should be a permanent decision. If there is going to be a size limitation on large retail establishments, it should survive well into the future, and the only way for that to occur is through the ballot initiative process. He asked that the issue be placed on the April 7 City Council meeting agenda.

Hearing Opened to the Public

- George Fink asked that Council support a moratorium on applications for the issuance of permits until a ballot initiative can be voted on, so that there is not a rush of projects moving forward in an attempt to circumvent the process.

Mayor Hansen replied that if a ballot measure to limit the size of large retail establishments is brought forward, he believed Council would entertain the idea that no projects be approved until citizens have an opportunity to vote.

Council Member Howard strongly opposed delaying projects that are already underway, as she believed it to be unfair.

- Betsy Fiske submitted a petition signed by 1,644 individuals which stated, *"We, the undersigned, ask that the Lodi City Council limit the square footage of big-box retail developments. We need the City Council's leadership in preserving Lodi's special and unique quality of life."* She asked that Council place a moratorium on projects until the matter is decided.
- Treacy Elliott believed that if large retail businesses are not restricted in size, there will be many empty buildings for lease in the City. He asked that there be a moratorium on any unapproved projects over 125,000 square feet and that the citizens of Lodi be allowed to make the decision on their future.
- Kurt Roberts anticipated that the city-wide survey results would show that people in Lodi want a size limitation on large retail buildings. He hoped that Council would vote to place a measure on the ballot for the November election. He felt there were too many possible negatives for the City to rush into approval of a Wal-Mart Supercenter without extensive review.
- Brad Clark commented that he liked the small town atmosphere and safety in Lodi. He urged Council to place a measure on the November election ballot placing a size limitation on large retail. In addition, he asked Council to impose a moratorium immediately on all pending projects of 25,000 square feet and greater. He favored a 100,000 square foot size limitation, above which would require a conditional use permit.
- Quintin Williams asserted that large retail businesses cause negative traffic impacts.
- Joe Pacino stated that large retail changes the dynamics of the street use and negatively impacts traffic safety. He believed that size is a design factor and asked Council to allow citizens to vote on the matter. He mentioned that, at expense to himself and others, a telephone poll was conducted. Out of 3,300 residents called, 73% were opposed to the Wal-Mart Supercenter because there would be too many people at one intersection.
- Pat Patrick, President and Chief Executive Officer of the Lodi Chamber of Commerce, submitted a position paper (filed) on behalf of the Board of Directors and Government Relations Committee expressing unanimous support for the design standards for large retail establishments and their belief that the standards negate the need for a size limitation.

- Ann Cerney, speaking as a citizen and small business owner, believed that there is a nexus connecting the scale of design to the economic vibrancy of the local community. Small-scale businesses are important to the community. Typically, large retail is owned and operated by outside corporations with little or no local ties. The result will be an outflow of local money that is greater than the inflow of money to the community. She urged Council to regulate in a manner that retains the small city aspect of Lodi. The surrounding agricultural community of the City has invested millions of dollars to develop the grape wine grower Appalachian District, which goes hand in hand with the historic small city character of Lodi. The development of agri-tourist business promises to expand the parameters of small business in the community. She noted that money from small businesses stays in the community. The continued vitality of the economy of the local area, both urban and rural, depends on the retention of the historic character and the scale of design of the physical environment. The people who live in Lodi should be allowed to drive the development of the land surrounding the City. Speaking as a member of Citizens for Open Government, Ms. Cerney stated that the group would like 100,000 square foot limits on retail establishments with no conditional use permit. In addition, they would like the minimum number of parking spaces for commercial establishments to be the maximum, i.e. two spaces per every 1,000 square feet of building. She recalled that on two occasions the Planning Commission directed staff to come back with standards for four parking spaces per 1,000 square feet and believed that Council should take that under consideration. Citizens for Open Government does not support anything in the way of a sliding scale for parking. Twenty percent of the surface of large retail developments should be designed as permeable surface to allow the percolation of rainwater and storm water runoff to increase the water table. The group also supports a ballot initiative for size limits, with a provision that voter approval be required to change the ordinance.
- Blake Griffin, representing the owners of Westgate Shopping Center, reported that they are currently involved in plans to remodel the center. He asked that the section in the design standards requiring 50% shading by trees in five years be reconsidered and studied further. This would require trees to be planted at 15 feet on center. Trees would not be close to their full canopy in five years. He noted that the requirement is typically 50% shading in 15 years.

Mr. Bartlam replied that the standard for trees was added as a result of Planning Commission and public comment. The intent was that more mature trees be planted initially.

- Darryl Browman displayed drawings of design standards implemented on large retail buildings. He pointed out that the large tenant is the catalyst for getting other retailers. He recommended that the design standards be changed to allow for 65% of the parking to be located in front of the store, noting that customers want to park in front of the store from a safety and convenience perspective. If parking is dispersed in an illogical way, it will create difficulty in re-leasing space that becomes vacant. The requirement for two entrances increases the cost of operating the store because of theft issues and having to stock and staff additional cash registers in two locations. He believed the Community Development Director should be given some discretion to vary from the standards in instances where the intent of the design criteria is met or exceeded. Mr. Browman submitted communication outlining his concerns regarding the design standards and a parking ratio listing for various types of stores (both filed). He asked that there be some flexibility in the out-parcel development, noting that retail and restaurant leases change. For example, if a restaurant tenant vacates a building, a provision needs to be inserted allowing an owner the flexibility to replace the tenant with another type of business, without the requirement to eliminate the parking intended for the previous restaurant.

In response to Council Member Howard, Mr. Bartlam reported that the Planning Commission felt that four parking spaces for every 1,000 square feet of building space was too restrictive and would lead to parking problems in shopping centers. Mr. Bartlam expressed his opinion that a flat five spaces per 1,000 square feet blended over the entire center would allow ample parking stalls for all types of businesses.

Council Member Hitchcock suggested that language be added to the design standards informing applicants that a variance process before the Planning Commission exists.

- Jim Watt, representing Save Mart Supermarkets, described the standards relative to allowing only 50% of the parking to be in front of the building and requiring two entrances, as draconian. He contended that these requirements should apply to buildings of a much larger size than 25,000 square feet. In addition he felt that having three separate parking space regulations is confusing and would be difficult to implement. He recommended that it be changed to a flat 4.50 to 4.80 spaces per 1,000 square feet of building space. He also pointed out that language contained in section 17.58.112 will likely create disputes in interpretation.
- Tim Mattheis, Chairman of the Planning Commission, urged Council to adopt the design standards as recommended. Many hours were devoted to public comment, Commission deliberation, and staff research, and he believed the end product to be a policy that would shape the small scale sense of Lodi into the retail development that is coming forward. He felt that the size limit issue was unrelated to design.
- Christina Cross stated that she is involved in the Ag Trust that is being developed for the four regions. She felt it was important that the size limitation was not arbitrary and hoped that Council would have an informed discussion to arrive at the specific square footage number. She expressed support for allowing citizens to vote on the issue.
- Robin Knowlton supported the design standards and asked that a moratorium be instituted until a vote of the people can take place regarding size limitations.
- Dave Phillips, Planning Commissioner, asked Council to amend the design standards to include a flat 4.50 parking spaces for every 1,000 square feet of building space.

RECESS

At 12:00 a.m., Mayor Hansen called for a recess and the City Council meeting reconvened at 12:10 a.m.

G. PUBLIC HEARINGS (Continued)

G-3
(Cont'd.)

- Kathy Grant expressed concern that with so little open unpaved land Lodi is facing serious water problems. Nowhere in the design standards is the footprint of a building balanced with open space on site designed to capture rainfall. She believed the State will eventually mandate that urban stormwater be impounded on site and treated before it is discharged. She preferred that the burden of this future problem be on the designer now, not on the taxpayers later.

Public Portion of Hearing Closed

In response to Council Member Hitchcock, Mr. Bartlam reported that the Lowe's project will be incorporating on site bio-swales and pretreated storm water. The West Side Facility Plan calls for a series of storm water lagoons, which have the capability and design to retain storm water for a longer period. He did not believe the concept was ready to be included in the design standards at this time.

Council Member Hitchcock made the following recommendations regarding the design standards:

- Simplify the parking space requirements to a flat five spaces for every 1,000 square of building space;
- Add language to the design standards informing applicants that a variance process exists at the Planning Commission level, if the intent of the design standards is met or exceeded;
- Clarify section 17.58.112;
- Require a conditional use permit for any project over 125,000 square feet to be considered by the Planning Commission with a right of appeal to the City Council.

Mayor Pro Tempore Beckman was opposed to the requirements for multiple entries and limiting parking to 50% in the front of the building. Mr. Beckman stated that he would support the regulation to have 50% shading by trees in five years on the condition that there were no other restrictions on parking.

MOTION #1:

Council Member Howard made a motion to introduce the ordinance amending Lodi Municipal Code Title 17, Zoning, by adding Chapter 17.58, "Design Standards for Large Retail Establishments" as recommended, with the amendment of 17.58.112 (C) to indicate that the maximum number of off-street parking spaces shall not exceed five spaces for every 1,000 square feet of building space.

SECOND #1:

Council Member Hitchcock stated that she would second the motion if the variance language she recommended be added to the standards.

Mayor Hansen suggested that language for amendments agreed upon tonight by Council can be brought back at a future meeting for adoption.

Council Member Hitchcock seconded the motion.

DISCUSSION:

Addressing Mr. Bartlam, Mayor Hansen asked if a size limitation of 100,000 square feet were in place, whether two 100,000 square foot buildings could be constructed side by side with a breezeway in between and still be within the guidelines, to which Mr. Bartlam answered in the affirmative. Mr. Hansen noted that the Rancho San Miguel Market being built on Cherokee Lane will have a definite impact on "mom and pop" operations in the surrounding area; however, no one raised any concerns about it. Mr. Hansen pointed out that the Rancho San Miguel Market is owned by Food for Less, another "big-box" store, and he found it hypocritical that they are now opposing the Wal-Mart Supercenter on the grounds that it will jeopardize its business. He warned that establishing size limits on retail buildings will not be a temporary solution. He felt that the moratorium should be discussed in conjunction with Mayor Pro Tempore Beckman's request to consider Council placing a measure on the November ballot. He agreed with previous comments regarding the public's desire to park and walk into the front of a building, rather than a side entry.

Council Member Hitchcock **withdrew** her second as she preferred amending the design standards to include a conditional use permit requirement for any project over 125,000 square feet, to be considered by the Planning Commission with a right of appeal to the City Council.

Council Member Land seconded the motion.

VOTE #1:

The above motion **failed** by the following vote:

Ayes: Council Members – Howard and Land

Noes: Council Members – Beckman, Hitchcock, and Mayor Hansen

Absent: Council Members – None

Mayor Hansen recommended that the parking requirement be increased to 60% in front of the building. In reference to Council Member Hitchcock's suggestion for a conditional use permit requirement, he suggested that it be discussed at the next regularly scheduled meeting on April 7.

MOTION #2 / VOTE:

The City Council, on motion of Mayor Hansen, Land second, introduced Ordinance No. 1746 amending Lodi Municipal Code Title 17, Zoning, by adding Chapter 17.58, "Design Standards for Large Retail Establishments" as recommended, with 1) the amendment of 17.58.112 (C) to indicate that the maximum number of off-street parking spaces shall not exceed five spaces for every 1,000 square feet of building space, and 2) the amendment of 17.58.112 (A) to indicate that no more than 60% of the off-street parking area for the lot, tract, or area of land devoted to the large retail establishment shall be located between the front façade of the large retail establishment and the abutting streets. The motion carried by the following vote:

Ayes: Council Members – Howard, Land, and Mayor Hansen

Noes: Council Members – Beckman and Hitchcock

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously voted to continue the meeting following the 11:00 p.m. hour, but to consider only Items H (Communications) and J-1 through J-2 (Ordinances). The remainder of the items will be continued to the Regular City Council meeting of April 7, 2004.

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Mayor Hansen, Beckman second, unanimously rejected the following claim:

a) Randall Hays, date of loss 1/23/04

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

a) The City Council, on motion of Mayor Hansen, Beckman second, unanimously made the following appointments:

Lodi Arts Commission

Olympia Hostler Term to expire July 1, 2006

Parks and Recreation Commission

David Akin Term to expire December 31, 2008

H-4 Miscellaneous

a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through February 29, 2004.

I. REGULAR CALENDAR

- I-1 "Adopt resolution authorizing the City Manager to appropriate \$25,000 in Public Benefit Program funds for the Lodi Residential Swimming Pool Pump & Motor Rebate Program for City of Lodi Electric Utility customers" was ***continued to the regular meeting of April 7, due to the above vote.***
- I-2 "Updates from Mayor Larry Hansen regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; status of recruitment process for new City Attorney; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation; and legal proceedings relative to the Environmental Abatement Program litigation" was ***continued to the regular meeting of April 7, due to the above vote.***
- I-3 "Adopt resolution awarding contract(s) for City-wide janitorial services to lowest responsive bidder(s)" was ***continued to the regular meeting of April 7, due to the above vote.***
- I-4 "Approve Special Allocation for expenses incurred for moving and storing PCE/TCE litigation files (\$17,005)" was ***continued to the regular meeting of April 7, due to the above vote.***

J. ORDINANCES

- J-1 Following reading of the title of Ordinance No. 1743 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 16.40, by Repealing Section 16.40.050 A-5 and Adding Section C Relating to Reimbursement Agreements," having been introduced at a regular meeting of the Lodi City Council held March 3, 2004, the City Council, on motion of Mayor Hansen, Beckman second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:
Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None
- J-2 Following reading of the title of Ordinance No. 1744 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 9 – Public Peace, Morals, and Welfare, Chapter 9.08, 'Offenses Against Property,' by Repealing and Reenacting Section 9.08.150 of the Lodi Municipal Code Relating to Vehicles," having been introduced at a regular meeting of the Lodi City Council held March 3, 2004, the City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:
Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

None.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 1:05 a.m., Thursday, March 18, 2004.

ATTEST:

Susan J. Blackston
City Clerk

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 7, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of April 7, 2004, was called to order by Mayor Hansen at 5:48 p.m.

Present: Council Members – Beckman, Hitchcock (arrived at 5:55 p.m.), Howard, Land (arrived at 6:00 p.m.), and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- e) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM

C-3 ADJOURN TO CLOSED SESSION

At 5:48 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:00 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:07 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions:

In regard to Item C-2 (a), Council provided direction.

In regard to Item C-2 (b), (c), (d) and (e), no reportable action was taken.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of April 7, 2004, was called to order by Mayor Hansen at 7:07 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Paul Zimmerman, St. Peter Lutheran Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Christine Lavond, member of the Library Board of Trustees, presented the Bob Hildreth 2004 Library Volunteer of the Year award to Patricia Pischnalnikoff.

D-2 (a) Mayor Hansen presented a proclamation to Nancy Martinez, Library Services Director, proclaiming the week of April 18 - 24, 2004, as "National Library Week" in the City of Lodi.

D-2 (b) Mayor Hansen presented a proclamation to Nancy Martinez, Library Services Director, proclaiming April 18, 2004, as "National Youth Service Day" in the City of Lodi.

D-2 (c) Mayor Hansen presented a proclamation to Anissa Flores, representing the Women's Center of San Joaquin County, proclaiming the month of April 2004 as "Sexual Assault Awareness Month" in the City of Lodi.

D-3 Presentations – None

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$6,779,601.43.

E-2 The minutes of March 3, 2004 (Regular Meeting), March 9, 2004 (Shirtsleeve Session), March 9, 2004 (Special Meeting), March 12, 2004 (Special Meeting), March 16, 2004 (Shirtsleeve Session), March 16, 2004 (Special Meeting), March 22, 2004 (Special Meeting), March 23, 2004 (Shirtsleeve Session), March 23, 2004 (Adjourned Special Meeting), March 25, 2004 (Special Meeting), and March 31, 2004 (Special Joint Meeting with the East Side Improvement Committee) were approved as written.

E-3 Received the report of the sale of scrap metal.

E-4 Approved the specifications and authorized advertisement for bids for up to 100 galvanized steel streetlight standards.

E-5 Approved the specifications and authorized advertisement for bids for wood utility poles as needed by the Electric Utility Department during calendar year 2004.

E-6 Adopted Resolution No. 2004-54 awarding the contracts for City-wide janitorial services to Korean Professional Building Maintenance, of Stockton; ServiceMaster Commercial Building Maintenance, of Sacramento; and Cleaning Concepts, of Lodi, in accordance with staff recommendation below:

1. That the Police Facility and the Library (Group A) be awarded to Korean Professional Building Maintenance on the Standard Schedule because of the number of citizens they serve and operational issues (i.e., 24/7 jail, dispatch, and other high-use areas). The existing frequencies at the Police Facility are six days per week for the jail portion and five days per week for the rest of the building. The Library includes a reduction from seven days a week to five days a week. The annual cost is \$58,560.

2. That the Civic Center Facilities (City Hall, Court, Carnegie Forum, and Finance Department) (Group B) be awarded to ServiceMaster Commercial Building Maintenance on the Reduced Schedule. The annual cost is \$25,272.
 3. That the Municipal Service Center, Parks and Recreation Facilities, White Slough, and Parking Structure (for Fire Administration) (Group C) be awarded to ServiceMaster Commercial Building Maintenance on the Reduced Schedule. The annual cost is \$19,308.
 4. That the Community Center at Hutchins Street Square (Group D) be awarded to Cleaning Concepts on the Standard Schedule. Hutchins Street Square recovers its janitorial expense through billing its renters, and the difference between standard and reduced services is only \$300 per month. The annual cost is \$11,640.
 5. Bids for emergency cleaning and call outs were received from all contractors. Those minimum call out and hourly rates are part of the contracts.
 6. Window cleaning was also bid as an alternate and will be part of the contracts to be used as needed.
- E-7 Adopted Resolution No. 2004-55 accepting the improvements for Harney Lane Sanitary Sewer Lift Station.
- E-8 Adopted Resolution No. 2004-56 accepting the public improvements of the public alley north of Oak Street, west of Central Avenue at the Joe Serna, Jr., Charter School Site.
- E-9 Adopted Resolution No. 2004-57 approving the improvement agreement for the public improvements of 620 South Cherokee Lane (APN 047-450-36); directed the City Manager and City Clerk to execute the improvement agreement on behalf of the City; and appropriated funds in the amount of \$85,000 for applicable reimbursements.
- E-10 "Adopt resolution authorizing the City Manager to execute a contract with the Lodi-Tokay Rotary Club for the 13th Annual Oooh Ahhh Festival to be held on July 4, 2004 (\$18,000)" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-11 Adopted Resolution No. 2004-58 authorizing the City Manager to allocate \$14,675 to fund a City of Lodi Parks and Recreation lighting retrofit project and to execute a contract with Eagle Energy Management to conduct the project work.
- E-12 "Adopt resolution approving Memorandum of Understanding between the City of Lodi and Lodi Professional Firefighters" was **pulled from the agenda pursuant to staff's request.**
- E-13 "Adopt resolution approving Memorandum of Understanding between City of Lodi and Association of Lodi City Employees (General Services)" was **pulled from the agenda pursuant to staff's request.**
- E-14 "Adopt resolution approving the renewal of the renegotiated Fire Emergency Services Dispatch agreement with the Stockton Fire Department" was **pulled from the agenda pursuant to staff's request.**
- E-15 Adopted Resolution No. 2004-59 authorizing the City Manager to execute a one-year on-site catering agreement at Hutchins Street Square with Wine Valley Catering, Inc.
- E-16 Adopted Resolution No. 2004-60 authorizing the City Manager to appropriate \$25,000 in Public Benefit Program funds for the Lodi Residential Swimming Pool Pump & Motor Rebate Program for City of Lodi Electric Utility customers.
- E-17 Adopted Resolution No. 2004-61 supporting the continuous operation of the Defense Distribution Center San Joaquin.

- E-18 Adopted Resolution No. 2004-62 revising the current abatement fee schedule for rotating contractor list.
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ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-10 "Adopt resolution authorizing the City Manager to execute a contract with the Lodi-Tokay Rotary Club for the 13th Annual Oooh Ahhh Festival to be held on July 4, 2004 (\$18,000)"

Janet Hamilton, Management Analyst II, stated that the Lodi-Tokay Rotary Club has a concern with a clause that has been in the contract since 1996.

City Manager Flynn read from the agreement, page 4, section 10, subsection D, "*After distribution of such profits to local non-profit organizations furnishing volunteers, any remaining profits shall go into the City's general fund.*"

Steve Whyte reported that the Oooh Ahhh Festival is the biggest fundraiser of the Lodi-Tokay Rotary Club. Non-profit organizations work at the event, help with staffing, and raise money from the proceeds. He explained that out of the net proceeds, the Lodi-Tokay Rotary Club donates back to local non-profit organizations and community projects. He asked that section 10, subsection D, be amended or removed from the agreement.

Mr. Flynn suggested that the language be changed to "any remaining profits shall go to the Lodi-Tokay Rotary Club."

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Land second, unanimously amended the contract language in Section D to read, "after distribution of such profits to local non-profit organizations furnishing volunteers, any remaining profits shall go to the Lodi-Tokay Rotary Club," and further adopted Resolution No. 2004-63 authorizing the City Manager to execute the contract with the Lodi-Tokay Rotary Club in the amount of \$18,000 for the 13th Annual Oooh Ahhh Festival to be held on July 4, 2004.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Tim Vallem commented that he recently read in the newspaper that the City was planning to annex property near Harney Lane and Lower Sacramento Road for the purpose of building 1,700 new homes. He expressed concern about using prime farmland, traffic congestion, and the fact that an out of town developer will build the homes. It will be a big impact to Lodi's 2% growth limit and eliminates local developers. He preferred that Council vote on this proposed development and the size limitation issue for large retail establishments; however, in absence of that, he asked that the people of Lodi be allowed to vote on these matters.

G. PUBLIC HEARINGS

- G-1 "Continue public hearing to April 21, 2004, to consider an appeal received from Key AND Advertising, Inc., regarding the Planning Commission's decision to deny the request of
- G-2 Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign and a Variance to double the maximum allowable sign area from 480 square feet to 960 square feet to be located at 1251 South Beckman Road' AND "Re-continue public hearing to April 21, 2004, to consider redesign concept for C-Basin (Pixley Park) and the exchange of properties with GREM, Inc., to allow the relocation of C-Basin"

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously continued the above subject public hearings to April 21, 2004.

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Mayor Pro Tempore Beckman, Hitchcock second, unanimously rejected the following claim:

a) Magellan Environmental, Inc., date of loss 11/03 through 2/04

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 Appointments – None

H-4 Miscellaneous – None

I. REGULAR CALENDAR

I-1 "Updates from Mayor Larry Hansen regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; status of recruitment process for new City Attorney; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation; legal proceedings relative to the Environmental Abatement Program litigation"

Mayor Hansen reported that the audit of Envision Law Group's billings continues to move forward. The application period for the position of city attorney closes on April 17. He and Council Member Hitchcock are reviewing the Requests for Information from legal firms and will proceed with scheduling interviews to be held before Council. In regard to the Environmental Abatement Program, a status hearing was held on March 26 and the next meeting is scheduled for June.

MOTION/ VOTE:

There was no Council action necessary on this matter.

NOTE: The following items were discussed out of order.

I-4 "Adopt resolution approving the Joint Venture Agreement between the City of Lodi, City of Stockton, American Medical Response, and A-1 Ambulance"

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Hitchcock second, unanimously rescheduled the above subject matter to the Regular City Council meeting of April 21, 2004.

I-2 "Approve Special Allocation for expenses incurred for moving and storing Environmental Abatement Program (EAP) litigation files (\$17,005); ~~and Kronick Moskowitz Tiedemann & Girard bill for services in the EAP litigation for February 2004 (\$100,936.58)~~"

Interim City Attorney Schwabauer pulled the Kronick Moskowitz Tiedemann & Girard portion of the item, as he had not yet had an opportunity to fully review the bill. He reported that \$2,889 was expended to move 500 boxes from Envision Law Group in Lafayette to Lodi, and \$855 was charged to organize the boxes in numerical order. The cost to relocate 1,500 boxes and shelving from the Document Depository to the former Police Station building was \$11,532. The Document Depository rental fee for January 30 to February 11 was \$1,729.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously approved the Special Allocation for expenses incurred for moving and storing Environmental Abatement Program (EAP) litigation files in the amount of \$17,005.

- I-5 "Discussion and appropriate action regarding 1) placing a ballot measure establishing big-box size limits on the November 2, 2004, ballot; 2) establishing a big-box size limit for the ballot measure; and 3) placing a moratorium on big-box retail pending the results of a November 2, 2004, ballot measure"

Deputy City Manager Keeter recalled that a request was made at the Council meeting on March 17 to place this item on the agenda. She noted that Council will need to address the following issues as they relate to a proposed ballot measure:

- Does Council want to take the big-box retail size restriction to the voters in November 2004?
- If so, does Council want the size restriction to be established at no greater than 100,000 square feet?
- If not, then what size?
- Does Council want to impose a moratorium on big-box retail with a 100,000 square foot restriction until the voters take a position on the issue in November 2004?
- If so, will this include remodel and expansion of existing retail stores?

Ms. Keeter reported that a Notice of Intention to Circulate Petition was filed with the City Clerk on March 30. The proposed initiative would amend the City's zoning ordinance to impose a maximum size limitation of 100,000 square feet upon all large-scale retail stores. In addition, it stipulates that any project proposal that exceeds 100,000 square feet would be subject to a public vote for approval.

PUBLIC COMMENTS:

- Patrick Walsh identified himself as president of a non-profit charity and a small business owner. He voiced support for Wal-Mart and its associates. He reported that dozens of fire departments have thermal imaging cameras on their vehicles, due in part to donations by Wal-Mart. He commended the organization for continually supporting worthwhile local and national charities with donations, sponsoring events, and supplying personnel.
- Veronica Teran stated that she previously worked at Wal-Mart as a minor and felt that it was a terrible company that did not care about its employees. She feared that a Wal-Mart Supercenter would put smaller stores out of business.
- Treacy Elliott asked Council to consider the initiative that was presented by the Small City Preservation Committee and to place a moratorium on any development over 100,000 square feet until the voters have an opportunity to decide the issue.
- Betsy Fiske, Chair of the Small City Preservation Committee, urged Council to adopt the language of the initiative that was submitted on March 30. She asked that, in the interim, a moratorium be placed on all new buildings over 100,000 square feet. She noted that this is not just a Lodi issue; people all over the state are speaking up about large-scale retail, most recently in Inglewood.

In answer to Council Member Howard, Ms. Fiske stated that Don Mooney, a land use attorney in Davis, helped to draft the initiative and the Committee compensated him for his services.

- Michael Meek believed that the real issue was about the proposed Wal-Mart Supercenter, not large retail business in general. He did not think that it would put other stores out of business and was opposed to a moratorium. He supported the Wal-Mart Supercenter for the additional revenue it would bring to the City.

- Philip Kinsey commended Wal-Mart for its contributions to school programs. Mr. Kinsey stated that he was a former Wal-Mart employee and enjoyed working there. He supported the Wal-Mart Supercenter for the additional revenue it would bring to the growing City and felt that a moratorium was unnecessary.
- Shawn Martinez was in favor of the proposed Wal-Mart Supercenter for its convenience and low prices.
- Florbela Kinsey voiced support for the Wal-Mart Supercenter as it would offer additional jobs for local residents and convenient one-stop shopping. She named numerous local organizations, agencies, and programs that Wal-Mart has donated \$380,000 in cash and products to during the past few years.
- Marilyn Domingo was opposed to limiting the size of large retail buildings. Noting the City's priority projects, she stated that it cannot afford to limit retail revenue. She did not believe that the Council should initiate a ballot measure; it should come from a citizen initiative.
- Art Johns pointed out that 100 years ago in the United States there was great concern about monopolies and actions were taken to control them. He believed that large retail businesses cause traffic congestion and parking problems. Wal-Mart allows recreational vehicles to camp in their parking lots. He asserted that most of Wal-Mart's profits go back to its headquarters to make bigger and better stores, not back into the communities in which they operate. He favored the size limit of 100,000 square feet on large retail buildings.
- Scott Glanville stated that with proper design standards being used, he would like to see the Wal-Mart Supercenter in Lodi.
- Carol Cash stated that she has worked for Wal-Mart for 12 years and receives good pay and benefits. It is a family-oriented organization and provides opportunities for advancement. She works as the Community Involvement Coordinator and Support Manager. Ms. Cash reviewed the charitable programs that Wal-Mart has contributed to with grants, scholarships, etc. She opposed the ballot measure and moratorium proposals.
- Kenneth Lopes recalled that 40 years ago Lodi residents all flocked to the malls in Stockton because there were no such shopping opportunities in the local community. This resulted in a loss of revenue for the City, and he intimated that this will continue to occur if businesses are prevented from operating in Lodi. He failed to see what difference the size of the store makes and pointed out that there is an enormous car dealership currently being constructed in the City. In reference to the concept of monopolies, he noted that one family who came to Lodi 45 years ago now owns all the car dealerships except two and are now pursuing those.
- Shelby Wicklund introduced herself as a Wal-Mart associate and customer who enjoys working with the company and would appreciate the convenient, one-stop shopping that a Wal-Mart Supercenter would offer.
- Michael Folkner, Store Manager for the Lodi Wal-Mart, stated that he has worked for the company for 12 years and began in a position of unloading trucks. He noted that if a size limitation had been in effect ten years ago, the Wal-Mart store would not be located in Lodi and 300 of its associates might not have jobs. He stated that it has outgrown the current store and urged Council not to adopt a size limitation restriction on large retail businesses.

- Karen Green voiced support for the proposed Wal-Mart Supercenter and urged Council not to place a moratorium on large retail businesses.
- Sharon Salas believed that Wal-Mart is a great store and it has excellent employees. She expressed support for the proposed Wal-Mart Supercenter for its convenience and low prices. She did not believe it would take business away from existing stores.
- Pat Patrick, President and Chief Executive Officer of the Lodi Chamber of Commerce, stated that the Chamber is not in favor of a size limitation on large retail stores. The Chamber represents 750 businesses in Lodi. He noted that Lodi now has new design standards in place, which eliminates the "big box" style. The Chamber and most of Lodi want to preserve the agricultural land that surrounds the community; however, the Wal-Mart Supercenter and other projects currently being considered are within the City limits and zoned for commercial development. He stated that size does not necessarily give an unfair advantage. The key of marketing is in how a business differentiates itself from another. He encouraged Council to take a stance on the issue and oppose a size limitation. In reference to the moratorium, he asked Council not to penalize businesses for something that may or may not be on the ballot in November.

Council Member Hitchcock asked Mr. Patrick if the Chamber discussed the social impacts of "big-box" development. She stated that when a Wal-Mart Supercenter was constructed in Las Vegas, 18 Raley's stores closed. She intimated that it is eliminating the middle class and suggested that getting good prices – has a price.

Mr. Patrick replied that the Chamber and its members believe in the principle of free enterprise. The Chamber encourages people to vote every day, economically, by where they choose to spend their dollars.

- Joe Pacino was opposed to the proposed Wal-Mart Supercenter. He stated that Wal-Mart forces its top 100 suppliers to outsource its jobs to "practically slave labor." China imports 10% of its retail to Wal-Mart. He urged Council to place the size limitation matter on the November ballot.
- Dean Meier supported a size limitation measure being placed on the November ballot and a moratorium on large retail businesses until the election. He cited negative impacts on economics, social issues, traffic congestion, and pollution as reasons to oppose the Wal-Mart Supercenter.
- Lois Poole mentioned that she was born in Lodi 65 years ago, works for Wal-Mart, has medical benefits, and is treated fairly.
- Ann Cerney, representing Citizens for Open Government, expressed support for placing the 100,000 square foot size limitation on retail establishments on the ballot and adoption of a moratorium until November. She urged Council to conduct a cost benefit ration study, noting that the City of Los Angeles has gathered data, which shows that developments with large retail stores costs more in additional public services, e.g. police and fire, than they generate in sales tax revenue.

Mayor Hansen suggested Council place a measure on ballot if the initiative proponents are not able to gather a sufficient number of signatures in time to qualify for the November election. He stated that from a holistic perspective he believes that the Wal-Mart Supercenter proposal is good for the City; however, because there is so much concern in the community, he is in favor of placing the matter on the ballot for a public vote.

- Tony Arnaiz asked Council to allow the size limitation proposal to be decided by the voters. He opposed all “big-box” development, as he believed existing businesses would suffer and it would result in lost jobs and revenue.
- Laddie Erbele, representing the Sierra Club, Delta Sierra Group, Mother Lode Chapter, believed the matter being discussed is a global issue. She expressed concern about the rapid growth of ever larger retail establishments. Given the rate at which prime agricultural land is disappearing in California and the poor air quality in San Joaquin County, she could not support the premise that sizes for retail establishments can continue to grow unchecked in the name of free enterprise. She supported size limits as part of retail design guidelines, a ballot initiative, and a moratorium. She urged Council to adopt the initiative as drafted by the Small City Preservation Committee.
- Robin Knowlton, member of the Small City Preservation Committee, asked that Council adopt the initiative as drafted by the Committee for placement on the November ballot and to place a moratorium on all retail development above 100,000 square feet until after the election. She believed that “supercenters” have hidden costs such as displacing locally owned businesses, increasing traffic congestion, placing large burdens on public infrastructure, discouraging new businesses, and degrading the look of the City. Pressure for converting farmland will increase and farms and wineries adjacent to these businesses will be negatively impacted.
- Alex Quinlivan, employee of Wal-Mart, voiced support for the proposed Supercenter for the convenience it will offer to its customers. He commented that Lodi will continue to grow whether it is desired or not.
- Patricia Wallace enjoys the small town environment that Lodi offers and believed that “big-box” retailers would diminish the economy and shut down “mom and pop” stores. She expressed support for the size limitation and moratorium on large retail establishments.
- Elizabeth Hernandez, employee of Food for Less, stated that a Wal-Mart Supercenter would harm existing grocery stores and cause loss of jobs. She favored the matter going before a vote of the people.
- Chris Wallace, employee of Wal-Mart, stated that the company has grown through good business practices and has been a benefit to the community. The corporation believes the Lodi community is large enough to support a Supercenter. He noted that consolidation into one store makes more sense than having two 70,000 square foot buildings side by side. He urged Council to make a decision on the matter as it represents all the people of Lodi, whereas placing a measure on the ballot will cause it to be decided by special interest groups.
- Christy Deschamp stated that she likes Lodi’s small, safe environment. She expressed support for a size limitation on large retail establishments and a moratorium until the matter is decided at an election.
- An unidentified/disguised individual noted that a Wal-Mart Supercenter is being constructed in Stockton, just ten miles away. He believed that existing stores would suffer if a Supercenter is built in Lodi. He suggested that Council adopt a size limitation of 135,000 to 150,000 square feet on all future retail establishments and review the matter every three to five years.
- Darryl Browman stated that he is a retail developer and opposed to a size limitation. Since an application for the Wal-Mart Supercenter was submitted one and a half years ago, Raley’s, Lakewood Mall, and Target are all considering remodeling and expanding. Mr. Browman attributed this to competition. He urged Council not to impose a moratorium. He asked that projects be allowed to continue through the process and

decision phases with a condition based on the outcome of the vote, should one occur. Mr. Browman reported that he is currently in negotiations with a tenant for the existing Wal-Mart building and a moratorium would jeopardize his ability to finalize an agreement, due to the uncertainty of an occupancy date.

Council Member Hitchcock and Mayor Hansen disclosed that they met with Mr. Browman previously. Mayor Hansen assured the public that if a ballot measure on this issue goes forward, no one will be allowed to “slip under the wire” and build a project.

- Vincent Sayles desired Lodi to retain its small, quaint character. He believed that Wal-Mart had negative employee conditions, would ravage the land, and is motivated by greed.
- Kerry Dunnihou stated that there were already an adequate number of grocery stores in Lodi for the population, especially in the area of Lower Sacramento Road and Kettleman Lane. More homes are planned near that location and the traffic is already congested. He asked Council to place the issue of size limitations on the ballot.
- Mary Corralez, employee of S-Mart Foods, expressed concern for her colleagues and small businesses if the Wal-Mart Supercenter is allowed to be built. She urged Council to place the matter on the ballot for public vote.
- Raleigh Morrow stated that Wal-Mart pays a larger payroll to the City than it makes in profits from the store in Lodi. He pointed out the paradox in trying to build up the community, sell Lodi wine around the world, and bring in tourists – alongside people saying they do not want to see Lodi change, many of whom moved here just a few years ago.
- Jeanne Marrow expressed support for Wal-Mart Supercenters and the way they are operated. She urged Council to show strong leadership and allow the project to proceed. She noted that there was no opposition to other large grocery store chains as they came into the community over the years.
- Virginia Lahr explained that she is a customer of Wal-Mart because of its low prices and commended the organization for its contributions to the community. She supported the Wal-Mart Supercenter proposal and did not believe it would negatively affect existing businesses. She pointed out that there was no opposition to the Lowe's project or the Rancho San Miguel Market, both of which are “big-box” retail.
- Frieda Parton disagreed with statements alleging that Wal-Mart puts others out of business. She was against a size limitation and believed that using good design standards can make any size building attractive.
- Ninfa Herrera urged Council to allow the public to vote on the issue and expressed concern that the Wal-Mart Supercenter would put existing stores out of business.
- Ann Hughes voiced support for a ballot measure.

In answer to Council Member Howard, Interim City Attorney Schwabauer stated if the initiative was successful, buildings already constructed would be grandfathered in and would not be subject to its requirements. The proposed initiative addresses 100,000 square feet in gross floor area, so two 70,000 square foot buildings could be placed side by side and not be over the size limitation.

Council Member Howard disclosed that she met with Mr. Browman and a representative from Wal-Mart. Ms. Howard stated that she was not in favor of establishing a ballot measure related to "big-box" size limits. She believed it to be the role and responsibility of the Council to make decisions on issues that come before the City. She noted that a citywide survey has been conducted, which allowed a way for Council to receive information from the community. She believed that the proper course of action would be to allow the initiative proponents to proceed, rather than Council bypassing the process and placing a measure on the ballot. She reported that a number of communications received by Council from citizens said that they did not want a Wal-Mart Supercenter, but would want a Macy's, Nordstrom, or Costco store. She pointed out that this would not be possible if a 100,000 square foot size limitation was imposed. Most businesses would not look favorably upon coming to Lodi if they had to wait a year or more for an election to find out whether or not they would be accepted in the community. Ms. Howard was opposed to placing a moratorium on large retail projects. Some projects have been in consideration for over a year and it would be unfair to stop them in anticipation of a ballot initiative that may or may not come to fruition.

Council Member Land disclosed that he spoke with Mr. Browman, a representative from Wal-Mart, and many others about this issue. Mr. Land stated that he has seen the drawings for the proposed Wal-Mart Supercenter and believed that it would be one of the nicest looking buildings in the City. He asked if Wal-Mart were to build two 100,000 square foot buildings side by side with a breezeway between them, whether it would be within the proposed initiative's guidelines, to which Community Development Director Bartlam answered in the affirmative. Mr. Land recalled that when the 165,000 square foot Lowe's project was being considered he received a call from a local land use attorney. At that time the proposal was for a Winco grocery retail store and a Lowe's store. The land use attorney, who also represented the unions, told him that the supermajority of opposition to the project would go away if the Winco store was removed from the project. This in fact did take place, and there was no further opposition. He asked Council and the public to consider what the real issues are. He found it ironic that eight years ago Council was considering whether to place a *minimum* size of 50,000 square feet on retail establishments in what was then called the "Four Corners" shopping center. Mr. Land stated that he would support a moratorium if the initiative qualifies for the ballot, but in the meantime projects should be allowed to move forward through the process.

Mayor Pro Tempore Beckman noted that shortly after he asked that this item be placed on the agenda, the Small City Preservation Committee filed its intent to circulate a petition. He had suggested a size limit of 60,000 square feet; however, the Committee believed it to be too extreme. He originally saw this as an opportunity for Lodi to define itself as a small town. He believed the 100,000 square foot size limit was not the right choice, and that the requirement for any business over that size to first go through a public vote is bad business. Mr. Beckman stated that he would oppose the ballot initiative.

Council Member Hitchcock reported that Wal-Mart is the largest political action committee in the United States. It has contributed to 49% of all of the sitting legislators on the federal level. Wal-Mart had the largest corporate profit in the United States last year at \$245 billion. Ms. Hitchcock noted that they have the potential to make an impact, and she is trying to explore whether it is positive or negative. She expressed a desire to have more information on analysis by cost benefits to the City. She supported the matter going to a public vote through the initiative process and placing a moratorium on projects until the election results are known. She expressed concern about the added expense of conducting a special election.

In answer to Council Member Hitchcock, City Clerk Blackston explained that if the initiative proponents are successful in obtaining signatures from 15% (3,950) or more of the registered voters in the City of Lodi, it would qualify for a special election to be held not less than 88 days nor more than 103 days after the date the Council orders the election; whereas, 10% (2,634) would qualify the petition for the next regular election. She noted that the initiative proponents have 180 days from the date of receipt of the ballot title and summary to collect the signatures.

In response to Council Member Hitchcock, Interim City Attorney Schwabauer reported that there is case law that indicates a moratorium can only apply to the final act of project approval.

Mayor Hansen did not think that government should interfere with the free enterprise system. He pointed out that Food for Less is building the Rancho San Miguel Market on the east side, which will compete with smaller businesses near that location. Now that a store may compete with Food for Less it has an issue with the size, etc. He recalled that when Food for Less first came to Lodi no one thought it was the City's obligation to protect the jobs of employees of existing grocery stores. He believed that large retail projects should be allowed to continue through the process with final approval contingent upon the outcome of the vote. He suggested that whether or not the required number of signatures are obtained by the initiative proponents, the matter should go before a vote of the people in November.

MOTION #1:

Council Member Hitchcock made a motion, Hansen second, that Council *not* place a measure establishing big-box size limits on the November 2, 2004, ballot, but to support citizens bringing forward an initiative.

DISCUSSION:

Interim City Attorney Schwabauer believed it was premature of Council to make a decision about the proposed initiative prior to it being filed and verified.

Mayor Pro Tempore Beckman and Council Members Howard and Land expressed agreement with Mr. Schwabauer's statement.

VOTE:

The motion **failed** by the following vote:

Ayes: Council Members – Hitchcock and Mayor Hansen

Noes: Council Members – Beckman, Howard, and Land

Absent: Council Members – None

MOTION #2:

Council Member Hitchcock made a motion, Beckman second, to impose a moratorium on final approval for big-box retail (100,000 square feet or greater) until voters take a position on the issue at an election, for which the citizen initiative qualifies.

DISCUSSION:

Mayor Hansen asked if the initiative passed, whether it would prevent the expansions of existing businesses.

Mr. Schwabauer answered in the affirmative, explaining that when an existing business applies for a permit, it would lose its grandfather status.

Community Development Director Bartlam agreed, noting that the planned Target expansion, which is anticipated to be ready for approval prior to November, would be delayed or prevented from occurring if the initiative passed. The motion under consideration would allow processing of the application to continue; however, it would not be scheduled for a hearing. In his opinion the initiative would *not* affect the proposed remodel and expansion of the Raley's or Lakewood Mall because neither has over 100,000 square foot uses. It *would* effect the application for the Target expansion and proposed Wal-Mart Supercenter.

RECESS

At 9:07 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:20 p.m.

I. REGULAR CALENDAR (Continued)

I-5 Interim City Attorney Schwabauer stated that pursuant to Government Code §65858, in (Cont'd.) order to adopt an interim ordinance Council must make a finding that there is a current and immediate threat to the public health, safety, or welfare and that the approval of additional subdivision, use permits, variances, building permits, or any other applicable entitlement for use, which is required in order to comply with a zoning ordinance, would result in that threat to public health, safety, or welfare. He suggested that Council allow him an opportunity to come back with draft language for the interim ordinance and recommended that it be considered following a public hearing. He noted that an interim ordinance requires a 4/5 vote to pass.

Mayor Pro Tempore Beckman **withdrew** his second, and the motion **died** for lack of a second.

In answer to Mayor Hansen, Mr. Bartlam explained that approvals on projects are final at the Planning Commission level unless appealed to the City Council. Staff would not schedule a public hearing before the Planning Commission if a moratorium was in place because there would be no point in holding a public hearing without the ability to take final action.

Discussion ensued on various scenarios and timelines to qualify a petition for the November ballot or for a special election.

In response to Mayor Pro Tempore Beckman, Darryl Browman reiterated his suggestion that Council allow projects to proceed through the process with a condition of approval contingent upon the election results. He offered to provide an agreement to that effect.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Howard, Hitchcock second, unanimously voted to continue the meeting following the 11:00 p.m. hour, but to consider only Items I-3 and J-1 through J-2 (Ordinances).

I. REGULAR CALENDAR (Continued)

I-3 "Adopt resolution approving an agreement between City of Lodi and Spare Time, Inc., dba Twin Arbor Athletic Club, for use of pools at Twin Arbor Athletic Club facilities for the period of May 31, 2004 to July 25, 2004"

Parks and Recreation Director Goehring described the background related to the agreement between the City and Twin Arbor Athletic Club. He and Dennis Kauffman, General Manager of Twin Arbor, worked collaboratively on amending the agreement, and staff met with summer swim league coaches and coordinators to revise the summer swim league bylaws.

He assured Council that all interested parties are satisfied with the changes. The Twin Arbors Memorandum of Understanding now clarifies the content and more clearly defines what is expected of the Club and its coach. The summer swim league bylaws were changed to ensure parity and define the responsibilities of coaches. All coaches were provided an opportunity to review the draft bylaws and make recommended changes before they were finalized. He noted that coaches involved in last summer's controversy are no longer affiliated with the program.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously adopted Resolution No. 2004-64 approving an agreement between City of Lodi and Spare Time, Inc., dba Twin Arbor Athletic Club, for use of pools at Twin Arbor Athletic Club facilities for the period of May 31, 2004 to July 25, 2004.

I. REGULAR CALENDAR (Continued)

- I-6 "Adopt resolution approving the job specification and salary range for the position of Fire Administrative Captain and provide authorization to fill the position" was ***pulled from the agenda due to the above vote.***

J. ORDINANCES

- J-1 Following reading of the title of Ordinance No. 1745 entitled, "An Ordinance of the Lodi City Council Amending the Official Map of the City of Lodi and Thereby Rezoning the Parcel Located at 5952 East Pine Street (APN 049-090-13) from San Joaquin County A-U, Agricultural Urban Reserve, to M2, Heavy Industrial," having been introduced at a regular meeting of the Lodi City Council held March 17, 2004, the City Council, on motion of Mayor Pro Tempore Beckman, Howard second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

- J-2 Following reading of the title of Ordinance No. 1746 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 17, Zoning, by Adding Chapter 17.58, Design Standards for Large Retail Establishments," having been introduced at a regular meeting of the Lodi City Council held March 17, 2004, Mayor Pro Tempore Beckman made a motion, Howard second, to waive reading of the ordinance in full and adopt and order it to print.

DISCUSSION:

Council Member Hitchcock explained that she would vote against the ordinance because she preferred that the design standards include a conditional use permit requirement for any project over 125,000 square feet to be considered by the Planning Commission with a right of appeal to the City Council.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen
Noes: Council Members – Hitchcock
Absent: Council Members – None
Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

None.

Continued April 7, 2004

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that Mayor Hansen's birthday was on April 15.
- Public Works Director Prima stated that he and Interim City Attorney Schwabauer attended a groundwater symposium today regarding investigation and remediation of dry cleaner release sites. Mayor Hansen participated in the panel discussion and did an outstanding job.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 1:11 a.m., Thursday, April 8, 2004, in memory of 1) Evelyn Hitchcock, mother of Council Member Susan Hitchcock, and 2) Lance Gardenhier, a 19-year-old who passed away on March 29, 2004.

ATTEST:

Susan J. Blackston
City Clerk

**LODI CITY COUNCIL
SPECIAL JOINT CITY COUNCIL MEETING
WITH THE LODI ARTS COMMISSION
HUTCHINS STREET SQUARE ~ CRETE HALL
125 S. HUTCHINS STREET, LODI
MONDAY, APRIL 19, 2004**

A. CALL TO ORDER / ROLL CALL

The Special Joint City Council meeting with the Lodi Arts Commission of April 19, 2004, was called to order by Mayor Hansen at 7:15 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Absent: Council Members – Land

Present: Arts Commissioners – Bader, Callahan, Crabtree, Falos, Heinitz, Inman, Metcalf, Phillips, and Stockar

Absent: Arts Commissioners – Hostler and Clemons

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. TOPIC(S)

B-1 "Discussion of items of mutual concern"

Community Center Director Silvestre reviewed the community-wide needs assessment report (filed), which documented strengths, weaknesses, and general characteristics of Lodi's arts and cultural needs. The report constituted the first phase of a two-part process to create the Arts Commission's five-year plan. Report methods included written surveys from the public, Lodi Unified School District, local agencies, public workshops, a focus group, and profiling of local arts resources.

Commissioner Crabtree outlined the mission, vision, and goals of the Arts Commission. Its goals include drafting the five-year plan, continuing the grant program, increasing revenue from arts classes by 30%, increasing overall class registration by 40%, and evolving the current course catalog into a community-wide Arts Directory.

Discussion ensued regarding the grant program criteria and funding.

Commissioner Crabtree emphasized the importance of the Arts Coordinator position, which is currently vacant. He stated that the loss of this position has greater impact, due to the small number of staff resources available to the Commission, and believed that its continued unfunded status jeopardizes the Arts programs.

City Manager Flynn pointed out that in 1995 the Community Center had five authorized positions and today there are ten. He suggested that the Commission prioritize its needs.

Commissioner Heinitz presented a gift of a tree to Community Center Director Silvestre in thanks for her work and in recognition for having recently moved to Lodi.

C. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 8:35 p.m.

ATTEST:

Susan J. Blackston
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing the purchase of replacement photocopier for Community Development Department (\$7,298.99)

MEETING DATE: May 5, 2004

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing the Community Development Department to purchase a replacement photocopier from Lucas Business Systems of Stockton, using a California Multiple Awards Schedule (CMAS) contract, in the amount of \$7,298.99.

BACKGROUND INFORMATION: The Department's existing photocopier's print quality and reliability have deteriorated over the last few years. A number of service calls have been made to the contracted maintenance provider, with each instance resulting in reduced productivity. The combination of decreasing reliability of both the machine and the maintenance service, and increased cost of annual service contracts (\$1933 annual maintenance charge for 2003), has prompted this request.

Department staff studied state contract pricing, equipment reviews, and relative ease of use of the machine, and is recommending the purchase of a Konica Model 7145 copier. The Model 7145 received a "Highly Recommended" rating last year from Business Equipment Research and Test Laboratories (BERTL), and staff noted that other Konica models consistently receive awards from Better Buys for Business and BERTL. Staff believes this model's features, ease of use, and image (copy) quality, combined with contract pricing and service cost (\$.0094 per copy for maintenance and supplies) offer an excellent value. (The list price for this copier is \$12,715, and the savings from the difference in maintenance service costs is estimated to exceed \$1000 per year). It is therefore recommended that the City Council authorize this purchase from Lucas Business Systems under terms of the CMAS contract.

FUNDING: 2003-2005 Financial Plan and Budget, account 1220451.7701.

Vicky McAthie, Finance Director

Konradt Bartlam
Community Development Director

cc: Purchasing Officer
City Attorney

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE PURCHASE OF ONE KONICA
MODEL 7145 COPIER FOR THE COMMUNITY
DEVELOPMENT DEPARTMENT

=====

WHEREAS, Lodi Municipal Code Section 3.20.070 authorizes dispensing with bids for purchases of supplies, services, or equipment when it is in the best interest of the City to do so; and

WHEREAS, the print quality and reliability of the existing copier in the Community Development Department has deteriorated, requiring a number of service calls and with each instance resulting in reduced productivity; and

WHEREAS, the combination of decreasing reliability of both the machine and the maintenance service, and increased cost of the annual service contract has prompted this request; and

WHEREAS, staff therefore recommends a non-competitive purchase of a Konica Model 7145 copier from Lucas Business Systems under the terms of the California Multiple Awards Schedule (CMAS) contract in the amount of \$7,298.99.

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby approves the purchase of one Konica Model 7145 Copier from Lucas Business Systems of Stockton, California, at a cost of \$7,298.99, utilizing the CMAS contract.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution awarding the purchase of steel streetlight standards (\$41,137.93)(EUD)

MEETING DATE: May 5, 2004

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt a resolution awarding the bid for the purchase of 65 galvanized steel streetlight poles to the low bidder, Wille Electric Supply Company, Stockton, in the amount of \$41,137.93.

BACKGROUND INFORMATION: On April 7, 2004, the City Council approved specifications and authorized advertisement for bids for purchase of up to 100 galvanized steel streetlight standards.

The Electric Utility Department's Engineering Division has issued work orders to replace 65 poles as part of a 5-year program of replacement of streetlight poles which are found during inspections to be structurally below standard. (The Department's 2003-2005 budget calls for replacement of a total of 100 poles during the budget's two-year term, but because of storage space limitations staff must recommend buying the required poles as work is scheduled. Further, because of volatility in steel prices, suppliers are not accepting orders for deferred deliveries).

The following bids for 65 steel standards were received, and opened on April 20, 2004:

Wille Electric Supply, Stockton	\$41,137.93
General Pacific, Portland, OR	\$43,166.21
All-Phase Electric, Stockton	\$43,353.21
Platt Electric, Stockton	\$43,563.33
G E Supply Company, North Highlands	\$43,720.91
Sierra Sales, Pleasanton	\$44,305.72
AZCO, Stockton	\$46,014.64

FUNDING: Electric Utility Department 2003-2005 Financial Plan and Budget, Business Unit 161674 Page E-47

Vicky McAthie, Finance Director

Alan N Vallow, Electric Utility Director

Prepared by Joel Harris, Purchasing Officer
cc: Manager, EUD Engineering and Operations

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AWARDING THE BID FOR THE PURCHASE OF
STEEL STREETLIGHT STANDARDS

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on April 20, 2004, at 11:00 a.m., for the purchase of 65 galvanized steel streetlight standards, described in the specifications, therefore approved by the City Council on April 7, 2004; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as shown as follows:

BIDDER	AMOUNT
Willie Electric Supply, Stockton	\$41,137.93
General Pacific, Portland, OR	\$43,166.21
All-Phase Electric, Stockton	\$43,353.21
Platt Electric, Stockton	\$43,563.33
G. E. Supply Company, North Highlands	\$43,720.91
Sierra Sales, Pleasanton	\$44,305.72
AZCO, Stockton	\$46,014.64

WHEREAS, the City Manager recommends award of the bid for the purchase of steel streetlight standards to Willie Electric Supply Company of Stockton, CA.

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby awards the bid for the purchase of 65 galvanized steel streetlight standards to Willie Electric Supply Company of Stockton, CA, the lowest bidder, in the amount of \$41,137.93.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution awarding the purchase of polemount and padmount transformers (\$75,819.37) (EUD)

MEETING DATE: May 5, 2004

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt a resolution awarding the bids for the purchase of polemount and padmount transformers to the bidder whose proposal and equipment meets City of Lodi specifications, and whose transformers are expected to yield the lowest overall life-cycle costs, Western States Electric, Portland, OR, in the amount of \$75,819.37.

BACKGROUND INFORMATION: On May 21, 2003, the City Council authorized the Electric Utility Department and the Purchasing Division to advertise for bids as necessary to meet the Electric Utility Department's requirements for polemount and padmount transformers through the fiscal year ending June 30, 2005.

On April 20, 2004, bids were opened for one size of polemount and two classes of padmount transformers, and life-cycle costs were evaluated. (Life-cycle costs are the combined total of purchase price plus cost of operation based on estimated power loss during the projected life of the transformer.) Proposals are also evaluated on the basis of compliance with equipment and bid specifications. Failure to comply with both may lead to disqualification of the bid. A summary of the bid evaluation is attached as Exhibit A.

The polemount transformers are expected to be used in the reconstruction of older parts of the overhead distribution system, and to replenish the inventory of back-up units. The padmount transformers are expected to be used for the White Slough WPCF expansion project, for a local plastic manufacturer's expansion project, and to replenish inventory.

FUNDING: Electric Utility Department 2003-2005 Financial Plan and Budget, Line Extensions, Business Unit #161651, Page E-41

Vicky McAthie, Finance Director

Alan N Vallow, Electric Utility Director

Attachment: Exhibit A

Prepared by Joel Harris, Purchasing Officer
cc: Manager, EUD Engineering & Operations

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING
THE BIDS FOR THE PURCHASE OF POLEMOUNT AND
PADMOUNT TRANSFORMERS

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on April 20, 2004, at 11:00 a.m. for the purchase of polemount and padmount transformers for the Electric Utility Department, described in the specifications therefore approved by the City Council on May 21, 2003. The quantity and type are as follows:

Padmount Transformers		Polemount Transformers	
2 Each	1,500 kVA, 480Y/277 Volt, Three Phase Pad	8 Each	50 kVA, 120/240 Volt, Single Phase CP Pole
3 Each	1,500 kVA, 13,800x12,000 Volt to 480Y/277 Volt, Three Phase Pad		

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as shown on Exhibit A attached; and

WHEREAS, the City Manager recommends the award of the bid for the various types and sizes of Polemount and Padmount Transformers for the Electric Utility Department, be made to the bidders whose proposal and equipment meet City of Lodi specifications and whose transformers are expected to yield the lowest overall life-cycle costs, Western States Electric of Portland, OR in the amount of \$75,819.37.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that the award of the bids for the purchase of polemount and padmount transformers for the Electric Utility Department, be and the same is hereby awarded to Western States Electric of Portland, OR in the amount of \$75,819.37.

Dated: May 5, 2004

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

Transformer Bid Evaluation

Bid Opening: April 4, 2004

Polemount

April 4, 2004

Tax (factor): 1.0775
 No Load Loss \$/watt: 3.75
 Load Loss \$/watt: 1.25

Bid Item 1 : 50 kVA, 120/240 Volt, Single Phase CP Pole

Number of units: 8

51 800

Vendor	Unit Price \$	Extended Price \$	Price w/tax \$	No Load Loss (watts)	Load Loss (watts)	No Load Loss value	Load Loss value	Cost of Losses \$	Life Cycle Cost \$	Delivery (weeks)	Height (inches)	Weight (pounds)
Western States Electric (Cooper)	993.00	7,944.00	8,559.66	87	497	2,610.00	4,970.00	7,580.00	16,139.66	9-11	41	667
Central Moloney	986.00	7,888.00	8,499.32	104	477	3,120.00	4,770.00	7,890.00	16,389.32	14	39	655
Kuhlman Electric	920.00	7,360.00	7,930.40	111	514	3,330.00	5,140.00	8,470.00	16,400.40	6-8	38	653
3ML Group, Inc. (Cam Tran Pacific)	1,094.50	8,756.00	9,434.59	105	410	3,150.00	4,100.00	7,250.00	16,684.59	8-10	44	730
ERMCO / Hess Enterprises, Inc.	1,010.00	8,080.00	8,706.20	110	478	3,300.00	4,780.00	8,080.00	16,786.20	9-12	51	767
Howard Industries	1,036.00	8,288.00	8,930.32	107	498	3,210.00	4,980.00	8,190.00	17,120.32	6-8	37	586
G E Supply*	879.00	7,032.00	7,576.98	100	430	3,000.00	4,300.00	7,300.00	14,876.98	8-10	35	574 *

* Does not meet specifications, i.e. did not bid CP units

Transformer Bid Evaluation

Bid Opening: April 20, 2004

Padmount

April 20, 2004

Tax (factor): 1.0775
 No Load Loss \$/watt: 3.75
 Load Loss \$/watt: 1.25

Bid Item 1: 1,500 kVA, 480Y/277 Volt, Three Phase Pad

Number of units: 2 90 >5.30

Vendor	Unit Price \$	Extended Price \$	Price w/tax \$	No Load Loss (watts)	Load Loss (watts)	No Load Loss value	Load Loss value	Cost of Losses \$	Life Cycle Cost \$	Delivery (weeks)	Height (inches)	Impedance %
Western States (Cooper)	11,201.00	22,402.00	24,138.16	1606	9118	12,045.00	22,795.00	34,840.00	58,978.16	11-13	72	5.730
Western States (Pauwels)	13,320.00	26,640.00	28,704.60	1376	8107	10,320.00	20,267.50	30,587.50	59,292.10	9-11	72	5.750
G E Supply	13,145.00	26,290.00	28,327.48	1378	8599	10,335.00	21,497.50	31,832.50	60,159.98	8-10	69.6	5.720
Wesco Distribution	11,746.00	23,492.00	25,312.63	1487	9652	11,152.50	24,130.00	35,282.50	60,595.13	8-10	66.5	6.050
Ermco / Hess Enterprises, Inc.	12,067.00	24,134.00	26,004.39	2046	8578	15,345.00	21,445.00	36,790.00	62,794.39	8-11	63	5.600
Howard Industries, Inc.	13,597.00	27,194.00	29,301.54	1663	9885	12,472.50	24,712.50	37,185.00	66,486.54	5-7	77	5.800
3ML Group, Inc. (Cam Tran Co. Ltd.)	14,292.00	28,584.00	30,799.26	1440	10300	10,800.00	25,750.00	36,550.00	67,349.26	12-14	68	5.3-6.2

Bid Item 2: 1,500 kVA, 13,800x12,000 Volt to 480Y/277 Volt, Three Phase Pad,

Number of units: 3 14 weeks max. 90 >5.30

Vendor	Unit Price \$	Extended Price \$	Price w/tax \$	No Load Loss (watts)	Load Loss (watts)	No Load Loss value	Load Loss value	Cost of Losses \$	Life Cycle Cost \$	Delivery (weeks)	Height (inches)	Impedance %
Western States (Pauwels)	13,340.00	40,020.00	43,121.55	1378	8222	15,502.50	30,832.50	46,335.00	89,456.55	9-11	72	5.750
Western States (Cooper)	11,300.00	33,900.00	36,527.25	1656	9206	18,630.00	34,522.50	53,152.50	89,679.75	11-13	72	5.720
Wesco Distribution	12,017.00	36,051.00	38,844.95	1848	9221	20,790.00	34,578.75	55,368.75	94,213.70	8-10	66.5	5.910
Ermco / Hess Enterprises, Inc.	12,539.00	37,617.00	40,532.32	1846	9091	20,767.50	34,091.25	54,858.75	95,391.07	8-11	63	5.600
G E Supply	14,745.00	44,235.00	47,663.21	1482	9791	16,672.50	36,716.25	53,388.75	101,051.96	8-10	76.3	5.780
3ML Group, Inc. (Cam Tran Co. Ltd.)	14,212.00	42,636.00	45,940.29	1600	10300	18,000.00	38,625.00	56,625.00	102,565.29	12-14	68	5.3-6.2
Howard Industries, Inc.	17,166.00	51,498.00	55,489.10	1866	7869	20,992.50	29,508.75	50,501.25	105,990.35	5-7	73	5.900



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution awarding purchase of wood utility poles (\$12,382.63) (EUD)

MEETING DATE: May 5, 2004

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt a resolution awarding the bid for the purchase of 34 wood utility poles to the low bidder, McFarland-Cascade, Tacoma, Washington, in the amount of \$12,382.63.

BACKGROUND INFORMATION: On April 7, 2004 the City Council approved specifications and authorized advertisement for bids for wood utility poles as needed during calendar year 2004.

On April 20, 2004, staff received and opened the following bids for thirty-four 45-foot Class 3 poles:

McFarland-Cascade, Tacoma, WA	\$12,382.63
North Pacific Group, Portland, OR	\$13,005.43
J H Baxter Company, San Mateo, CA	\$13,899.32
The Oeser Company, Bellingham, WA	\$16,399.21

Wood utility poles are needed on an ongoing basis for replacement of damaged or deteriorated poles and for routine line maintenance and upgrades.

FUNDING: Electric Utility Department 2003-2005 Financial Plan and Budget, Business Unit 161652, Pages E-4 and E-42

Vicky McAthie, Finance Director

Alan N Vallow, Electric Utility Director

Prepared by Joel Harris, Purchasing Officer

cc: Manager, EUD Engineering and Operations

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY
COUNCIL AWARDING THE BID FOR THE
PURCHASE OF WOOD UTILITY POLES

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council sealed bids were received and publicly opened on April 20, 2004, at 11:00 a.m. for the purchase of thirty-four 45-foot Class 3 Wood Utility Poles, described in the specifications therefore approved by the City Council on April 7, 2004; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as follows:

<u>Bidder</u>	<u>Bid</u>
McFarland Cascade Company, Tacoma WA	\$12,382.63
North Pacific Group, Portland, OR	\$13,005.43
J. H. Baxter & Co., San Mateo, CA	\$13,899.32
The Oeser Company, Bellingham, WA	\$16,399.21

WHEREAS, the City Manager recommends award of the bid for the purchase of thirty-four 45-foot Class 3 Wood Utility Poles be made to the low bidder, McFarland Cascade Company, of Tacoma, Washington.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that the award of the bid for the purchase of thirty-four 45-foot Class 3 Wood Utility Poles be made to the low bidder, McFarland Cascade Company, of Tacoma, Washington, in the amount of \$12,382.63.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: **Donation of Used Police Equipment to San Joaquin Delta College POST
Peace Officer Academy**

MEETING DATE: **May 5, 2004**

PREPARED BY: **Jerry J. Adams, Chief of Police**

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing the donation of 46 ballistic vests to the Delta College POST Academy. The vests are no longer warranted and are being replaced through the City's vest replacement agreement with the Police Bargaining Units.

BACKGROUND INFORMATION: The City Council has approved and the police department is in the process of replacing ballistic vests for thirty-seven (37) of its sworn officers. Also, there are 9 vests that are held in inventory that have passed the five-year warranty period and can no longer be used by a police officer because they are not guaranteed to stop bullets. The POST Academy cadets do not participate in high-risk activities requiring ballistic vests for their safety.

FUNDING: None

Jerry J. Adams
Chief of Police

cc: City Attorney

APPROVED:

H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE DONATION OF BALLISTIC VESTS
TO THE SAN JOAQUIN DELTA COLLEGE POST PEACE
OFFICER ACADEMY

=====

WHEREAS, City Council has approved and the Police Department is in the process of replacing ballistic vests for thirty-seven of its sworn officers; and

WHEREAS, currently nine vests in inventory have passed the five-year warranty period and can no longer be used by a police officer because they are no longer guaranteed to stop bullets; and

WHEREAS, the POST Academy cadets do not participate in high-risk activities requiring ballistic vests for their safety; and

WHEREAS, staff therefore recommends donating 46 ballistic vests to the San Joaquin Delta College POST Peace Officer Academy.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the donation of 46 ballistic vests to the San Joaquin Delta College POST Peace Officer Academy.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Improvement Agreement for the Public Improvements of 2111 West Kettleman Lane (APN 027-410-21)

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution to approve the Improvement Agreement for the Public Improvements of 2111 West Kettleman Lane (APN 027-410-21) and direct the City Manager and City Clerk to execute the improvement agreement on behalf of the City.

BACKGROUND INFORMATION: The project site is located at 2111 West Kettleman Lane, as shown on Exhibit A. The development consists of a commercial office building and includes the extension of water, wastewater and storm drain facilities from Tienda Drive to serve the project site, as well as the adjacent parcels to the north and west, and undergrounding of existing overhead utilities on Kettleman Lane.

Design and installation of street frontage improvements on Kettleman Lane is also the developer's responsibility and is required with this project. The required improvements include curb, gutter, sidewalk, commercial driveway, side inlet catch basin, street pavement and streetlights. The listed improvements are included in the City's Kettleman Lane Gap Closure project which is currently under construction. The City is eligible for reimbursement for the costs associated with the Kettleman Lane improvements benefiting developer's property in conformance with Lodi Municipal Code 16.40 Reimbursements for Construction. Staff intends to return to Council when the Kettleman Lane Gap Closure project is complete and all costs are known, to establish an area of benefit and reimbursable costs for those improvements. Based on the costs available at this time, staff estimates that the costs to be reimbursed to City by developer will be on the order of \$40,000. Developer has agreed as part of the improvement agreement that acceptance of the public improvements for developer's project will be contingent upon payment of the reimbursable costs established by City Council.

FUNDING: Developer Funds

Richard C. Prima, Jr.
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer
RCP/SAW
Attachment
cc: Senior Civil Engineer Fujitani
Senior Civil Engineer Welch
Giannoni Family Trust
Dillon & Murphy

APPROVED: _____
H. Dixon Flynn, City Manager

When Recorded, Please Return to:
Lodi City Clerk
P.O. Box 3006
Lodi, CA 95241-1910

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE
IMPROVEMENT AGREEMENT FOR THE PUBLIC IMPROVEMENTS OF
2111 WEST KETTLEMAN LANE (APN 027-410-21) AND FURTHER
AUTHORIZING THE CITY MANAGER TO EXECUTE THE IMPROVEMENT
AGREEMENT ON BEHALF OF THE CITY OF LODI

=====

WHEREAS, the project site is located at 2111 West Kettleman Lane as shown on Exhibit A attached; and

WHEREAS, the development consists of a commercial office building and includes the extension of water, wastewater and storm drain facilities from Tienda Drive to serve the project site, as well as adjacent parcels to the north and west, and undergrounding of existing overhead utilities on Kettleman Lane; and

WHEREAS, the design and installation of street frontage improvements on Kettleman Lane is also the developer's responsibility and is required with this project; and

WHEREAS, the required improvements include curb, gutter, sidewalk, commercial driveway, side inlet catch basin, street pavement and streetlights, and are currently included in the City's Kettleman Lane Gap Closure Project which is presently under construction; and

WHEREAS, the City is eligible for reimbursement for the costs associated with the Kettleman Lane improvements benefiting the developer's property in conformance with Lodi Municipal Code 16.40 Reimbursements for Construction; and

WHEREAS, staff intends to return to Council when the Kettleman Lane Gap Closure project is complete and all costs are known, to establish an area of benefit and reimbursable costs for those improvements, estimated to be approximately \$40,000; and

WHEREAS, the developer has agreed as part of the Improvement Agreement that acceptance of the public improvements for developer's project, will be contingent upon payment of the reimbursable costs established by the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi hereby approves the Improvement Agreement for the Public Improvements of 2111 West Kettleman Lane (APN 027-410-21) and directs the City Manager and City Clerk to execute the Improvement Agreement on behalf of the City of Lodi.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute a Professional Services Agreement with Padilla & Associates, Inc., for Disadvantaged Business Enterprise (DBE) Program Consulting Services (\$6,300)

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing the City Manager to execute a professional services agreement with Padilla & Associates, Inc., to submit the City of Lodi's Disadvantaged Business Enterprise (DBE) Program Overall Annual Goal for Federal Fiscal Year 2004/05.

BACKGROUND INFORMATION: The U.S. Department of Transportation (DOT) regulations under 49CFR, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, ensures fair competition for all DOT contracts. The regulations are intended to insure a level playing field on which minority, women, and other disadvantaged small businesses can compete for federally-assisted highway, transit and airport contracts. These regulations require the City of Lodi to submit an Overall Annual Goal that meets the regulations as a condition of using Federal funds. The Overall Annual Goal must be submitted in June 2004 for the Federal fiscal year of October 1, 2004 through September 30, 2005.

Padilla & Associates, Inc., was hired to develop the DBE Program and goals for the last three Federal fiscal years. The consultant will prepare the Overall Annual DBE Goal for Federal Fiscal Year 2004/05 utilizing 49CFR Part 26 goal-setting methodology, including calculation of the base figure and required analysis; determine the City's race-neutral and race-conscious participation projections and corresponding rationale towards meeting the overall annual goal; and prepare required submissions to Caltrans. They will also develop the required public notice and compile public facilitation summary for submission to Caltrans.

Staff is able to perform some of the required details in submitting the overall annual goal. However, there are tasks, such as the goal-setting methodology, that need to be done by the consultant. There are complex analysis and calculations involved that staff is unable to perform, and there is not local training offered so that staff may be able to handle it in-house.

FUNDING: Public Works Administration Operating Budget FY 04/05 (Professional Services) \$6,300

Vicky McAthie, Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Rebecca Areida, Management Analyst
RCP/RA/pmf
cc: Padilla & Associates, Inc.

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE A
PROFESSIONAL SERVICES AGREEMENT WITH PADILLA &
ASSOCIATES, INC., FOR DISADVANTAGED BUSINESS
ENTERPRISE (DBE) PROGRAM CONSULTING SERVICES

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a professional services agreement with Padilla & Associates, Inc., for Disadvantaged Business Enterprise (DBE) Program consulting services, not to exceed \$6,300.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the Lodi City Council in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution approving Memorandum of Understanding between City of Lodi and Lodi Professional Firefighters (LPF)

MEETING DATE: Wednesday, May 5, 2004

PREPARED BY: Human Resources Director

RECOMMENDED ACTION: That the City Council approve the Memorandum of Understanding between City of Lodi and the Lodi Professional Firefighters (LPF).

BACKGROUND INFORMATION: The City has recently completed negotiations with the Lodi Professional Firefighters bargaining unit. In September, 2003, the City Council accepted the tentative agreement with the Lodi Professional Firefighters. The agreement was subsequently ratified by the Lodi Professional Firefighters. A Memorandum of Understanding has been prepared and is now brought back to the City Council for formal adoption.

FUNDING: N/A

Respectfully submitted,

Joanne M. Narloch, Human Resources Director

cc: Interim City Attorney
Pete Iturraran, LPF President

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LODI AND THE LODI
PROFESSIONAL FIREFIGHTERS

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approves the Memorandum of Understanding between the City of Lodi and the Lodi Professional Firefighters, as shown on Exhibit A attached hereto; and

BE IT FURTHER RESOLVED that said Memorandum of Understanding shall be effective July 1, 2003 through June 30, 2006.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____

MEMORANDUM OF UNDERSTANDING

CITY OF LODI

AND

LODI PROFESSIONAL FIREFIGHTERS

July 1, 2003 – June 30, 2006

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Schedule A – Salary Schedule Effective 10/1/03
Attachment 1 – Side Letter

City of Lodi
And
Lodi Professional Firefighters
July 1, 2003 – June 30, 2006

Chapter 1. Salaries and Other Compensation

ARTICLE I - ABOVE CLASS PAY

- 1.1 All employees in this bargaining unit who are required to work in a higher class shall be paid an additional 5% of the employee's salary for all hours once 12 consecutive hours have been worked.

ARTICLE II – DEPARTMENT SANCTIONED TEAMS

- 2.1 It is the intent of the City to develop specialized teams to address a variety of special hazards and provide specialized services to the department or community. When a team is established, minimum standards for inclusion and retention as a team member shall be developed and ratified by the Fire Chief. Any member of the department who becomes a member of the recognized specialized team, shall receive a 2.5% salary increase for as long as he/she meets the minimum entry level requirements and maintains a minimum level of participation as outlined in the team membership requirements. Each employee of the department can only receive 2.5% of salary for team membership, regardless of the number of teams the employee belongs to.
- 2.2 Existing members of the Hazardous Materials Team shall remain members of the team and shall continue to receive the 2.5% salary increase. The three members of the department who meet the minimum requirements for inclusion on the Hazardous Material Team shall be able to join the team and receive the 2.5% salary increase upon ratification of this contract. However, no additional team members shall be assigned to the Hazardous Material Team until the membership falls below 12 members. There shall be a six month period for the team to develop acceptable performance standards for maintaining his/her membership on the team.

- 2.3 The development of new teams shall require the submittal of minimum entry level and performance criteria for maintenance of membership to the Fire Chief prior to the development of the team. The Fire Chief shall have the sole discretion as to the appropriate number of members per specialized team. The department shall make every effort to develop a cadre of specialized teams to adequately address the needs of its members.

ARTICLE III - EDUCATION INCENTIVE

- 3.1 An incentive program shall be established with the major purpose being to encourage and reward members of the LPF to broaden their on-the-job experience with academic training in the fields of science, management and administration.

- 3.2 Employees who meet the following criteria are eligible for education incentive pay.

- A. Employees holding an Associate of Arts shall receive \$25.00 per month if the:

1. AA is in Fire Science or related field or;
2. AA is in a non-related field with a Fire Science Certificate from an accredited institution or;
3. The employee possesses an AA degree and is actively pursuing a baccalaureate degree.

- B. Employees possessing a BA or BS degree shall receive an additional \$25.00 per month. If an employee possesses a BA degree, it is assumed that an AA is also possessed.

- C. The following increments shall be added to the Education Incentive Program. It is agreed that the following amounts shall be paid if the individual has completed the necessary course work.

◇ EMT-----	3% of base salary per month
◇ Certified Fire Officer-----	\$50.00 per month
◇ Certified Chief Officer-----	\$50.00 per month
◇ Certified Fire Investigator- Level 2-----	\$12.50 per month
◇ Certified Fire Instructor Level 3 and Mgmt 2.E-----	\$25.00 per month
◇ Certified Fire Prevention Officer Level 3 and Mgmt 2.E-----	\$25.00 per month
◇ Certified Public Education Officer Level 2 -----	\$12.50 per month
◇ Certified Fire Chief-----	\$25.00 per month

The maximum amount to be paid under this program is \$175.00 per month. EMT pay is excluded from the \$175.00 per month cap.

- 3.3 In addition to the amounts specified in Section 3.2, an additional \$25.00 per month shall be paid if the employee possess a Hazardous Materials Specialist/Technician certificate.
- 3.4 Persons possessing the aforementioned requirements shall not receive the incentive pay until such time as evidence of completion is produced. If they do possess the requirements on that date, but do not have evidence of completion, pay shall be made retroactively.

ARTICLE IV – FLEXIBLE SPENDING ACCOUNT

- 4.1 The City shall include members of the LPF in the City's flexible spending account program, which allows employees to pay for unreimbursed medical costs, insurance premiums, and dependent care costs to be paid with pretax dollars.

ARTICLE V - JURY DUTY

- 5.1 All full-time regular employees are granted jury duty leave with pay. Any employee who is summoned to attend any court during the time regularly required for his employment for the purpose of jury service shall be entitled, while so engaged and actually serving, to his regular compensation in addition to any jury duty compensation.
- 5.2 No employee shall be granted jury duty leave with pay in which such employee will be testifying in behalf of oneself or as a witness in a court of law.
- 5.3 An employee serving on jury duty, who is not required to be in attendance at such jury duty for more than one half of the employee's normal working day is expected to return to his regular work assignment for the balance of the day. An employee seated on a jury shall not be scheduled for regular work during the twelve hours preceding the scheduled time for jury duty.
- 5.4 If an employee covered by this Agreement is required by subpoena to appear in court or to give a deposition as a result of an action taken within the scope of employment with the City, that employee shall receive his full pay while so doing, with no loss of time if he/she is on regular duty. If the employee is not on duty, the City agrees to compensate that employee at one and one-half times his/her regular rate of pay, for the time spent in any appearance as required by this Article. The employee shall demand a witness fee and shall reimburse same to the City. As a

prerequisite for payment to off-duty employees, the Fire Chief or his designee must be notified in writing of the off-duty appearance within seventy-two hours after the employee is subpoenaed or otherwise notified of the required court appearance. The employee shall demand a witness fee and shall reimburse the same to the City.

- 5.5 Voluntary Grand Jury service such as that service in San Joaquin County, is not covered by Jury Duty leave.

ARTICLE VI – MERIT INCREASES

- 6.1 Merit increases shall not exceed the next step of the salary range for the position's classification.

ARTICLE VII - OVERTIME

- 7.1 All hours worked in addition to the regularly scheduled shifts shall be paid at the rate of one and one-half times the then regular rate of the employee. Overtime work shall be required of any employee to meet special or unusual needs of service beneficial to the City and community. All overtime work requires the prior approval of a supervisor. No employee on disciplinary or medical leave shall be eligible to work overtime.
- 7.2 Employees working overtime shall be paid in increments of 15 minutes. Time within any 15 minute increment shall be rounded off, with 0-7 minutes adjusting back to the preceding increment and 8-15 minutes adjusting forward to the next increment. Therefore, overtime shall be compensated in increments of 15 minutes at a rate of time and one-half.
- 7.3 Employees may accrue compensatory time in lieu of overtime pay. The accrual rate for compensatory time shall be one and one-half hours for each hour worked.
- 7.4 No more than one hundred forty-four (144) hours of compensatory time shall be carried on the books at any time.
- 7.5 Bargaining unit members shall be allowed to cash out up to a maximum of 144 hours of earned compensatory time off twice per year, in April and October.
- 7.6 Upon separation, the employee shall be paid at the employee's current hourly rate or the average of the last three years whichever is higher, for the remaining compensatory balance.
- 7.7 Early call in or shift holdovers shall be compensated at the time and one-half rate.

- 7.8 Employees called to work outside their regular hours shall be paid at the rate of time and one-half the hourly rate for hours actually worked with a minimum guarantee of three (3) hours for each call.
- 7.9 If an employee requests time off that would result in the need for overtime, the employee must take a minimum of three (3) hours off unless the time off is for emergency reasons or has prior approval of the Fire Chief or his/her designee. Except for the first or last two or less hours of the shift, shift holdover or early relief would apply in these situations.
- 7.10 If a represented employee is called upon to perform the duties of a position exempt from the Fair Labor Standards Act, all provisions of this Article shall prevail.

ARTICLE VIII - SALARY

- 8.1 Effective October 1, 2003, represented employees shall receive an equity salary adjustment of 3.5% simultaneous with a general salary increase of 2.5% as shown in Schedule A.
- 8.2 Effective the pay period in which July 1, 2004 falls, represented employees shall receive a cost of living increase based on the April, 2004 Consumer Price Index (San Francisco/San Jose, Urban Wage Earner). The cost of living increase shall equal the CPI, but in no event will it be greater than 4% or less than 2%.
- 8.3 Effective the pay period in which July 1, 2005 falls, represented employees shall receive a cost of living increase based on the April, 2005 Consumer Price Index (San Francisco/San Jose, Urban Wage Earner). The cost of living increase shall equal the CPI, but in no event will it be greater than 4% or less than 2%.
- 8.4 The fifteen cities to be surveyed are as follows:

Chico	Clovis	Davis
Fairfield	Merced	Manteca
Modesto	Redding	Roseville
Stockton	Tracy	Turlock
Vacaville	Visalia	Woodland

ARTICLE IX - TUITION REIMBURSEMENT

- 9.1 In addition to the City policy, individuals enrolling in courses offered by recognized professional organizations which are not accredited through a college or

university shall be eligible for up to a maximum of \$300.00 per fiscal year, to be paid upon the satisfactory completion of course work. The total monetary benefit shall not exceed the amount listed in the City Policy Manual.

ARTICLE X – DEFERRED COMPENSATION

- 10.1 Effective January 1, 2004, the City shall match contributions by bargaining unit members to a deferred compensation program up to a maximum of 3% of the members salary.

ARTICLE XI - UNIFORM ALLOWANCE

- 11.1 The City shall, on a one-time basis, provide each present and future employee with three department approved uniform shirts and three pair of department approved uniform pants of a flame retardant fabric. After this initial issue the maintenance and replacement of the uniform is the employee's responsibility.
- 11.2 The uniform allowance shall be \$800 per year, paid quarterly, as part of the last bi-weekly paycheck in the months of March, June, September, and December.

ARTICLE XII - WORKERS' COMPENSATION

- 12.1 In the event that a member of the LPF is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, he shall become entitled, regardless of his period of service with the City, to leave of absence while so disabled without loss of salary, in lieu of temporary disability payments, if any, which would be payable under this chapter, for the period of such disability but not exceeding one year, or until such earlier date as he is retired on permanent disability pension. (State of California Labor Code, Article 7, Section 4850.)
- 12.2 The City shall implement Article 4850.3 of the Labor Code which provides for advance disability payments prior to receipt of industrial disability retirement allowance to the member.

ARTICLE XIII- BILINGUAL PAY

- 13.1 Bilingual pay of \$150.00 per month shall be paid to all LPF members for speaking Spanish and/ or Punjabi, subject to the eligible employee passing a proficiency exam administered and approved by the City.

ARTICLE XIV- PERFORMANCE INCENTIVE BONUS

14.1 Definition:

A Performance Incentive Bonus (PIB) is a monetary reward for meritorious performance above and beyond what is expected and required of all employees who satisfactorily meet the standards of their job.

The bonus shall be \$1,500.00 for those employees who have completed the service requirements of ten (10) years, and \$3,000.00 for those employees who have completed the service requirements of twenty (20) years.

The bonus is not a part of base salary. Receipt of the bonus for one (1) year does not affect the following year. Employees must submit a new application for each year they wish to be considered for the PIB.

It is understood that the bonus is discretionary, and is based upon meritorious performance as described in the PIB evaluation criteria.

Employees who are granted a PIB by the evaluation committee shall be issued a separate check for the appropriate amount in November of each year of this contract.

14.2 Eligibility:

To be eligible to apply for the bonus, employees must meet the following minimum qualifications:

1. Employees must have completed at least ten (10) full years of service in this bargaining unit with the City of Lodi by the beginning of the preceding time period being evaluated (i.e. to be eligible for consideration in November of 2004, an employee shall have had to complete ten (10) full years of service by June 30, 2004).
2. Employees must have, at a minimum, a rating of meets standards, in the overall factor rating listed on the performance evaluation.
3. Special duty assignments shall include but are not limited to: Associate, and or member of a team (maintaining team qualifications and training hours); Actively participating in team deployments; Participation in Wildland fire deployment; Performing fire investigations; Public education

activities; ROP program instruction; Active committee participation; SOP design and implementation; Training class instruction; Participation with civic/community organizations.

4. Employees must not have received discipline issued beyond an oral reprimand.
5. Employees must not have received a positive drug test.
6. Employees must have worked a minimum of eight months during the qualifying period.

Employees must have met the minimum qualifications by the beginning of the preceding time period being evaluated.

14.3 Evaluation of Application (Process):

The PIB process shall consist of a committee evaluation, conducted on an annual basis and shall be based upon the preceding year's evaluation (July – June), and the events, activities, and actions during this same period of time.

An evaluation committee shall be appointed to review and evaluate the applications. The evaluation committee shall be composed of two (2) representatives from the LPF, two (2) representatives from Fire Department management, and one (1) representative from the Human Resources Department.

Applications for PIB must be made in writing on the designated application form within the time period allotted by the evaluation committee.

Applicants shall be evaluated only upon written documentation including but not limited to what is provided in applicants' application, their performance evaluation and any actions and events during the rating period including but not limited to the following: attendance, disciplinary actions, service awards, commendations, etc.

The criteria used by the evaluation committee shall be determined and developed in advance of implementation by Human Resources and the Fire Chief and subject to agreement with a representative from LPF.

The decision of the committee shall be provided to each applicant in writing. The vote of the committee shall be in confidence. Members of the committee shall maintain confidentiality in respect to all committee processes including voting. No committee member shall disclose to any person outside the committee any discussion of the committee or information concerning the voting or process of the committee members.

The decision of the evaluation committee to grant or deny a PIB is final and binding, shall not be appealed, and is not subject to any grievance procedure. Any perceived technical errors regarding minimum qualifications for the bonus may be resubmitted for further review by the committee.

Chapter 2. Leaves

ARTICLE XV- CATASTROPHE BANK

- 15.1 LPF members shall be covered by and subject to the Citywide Catastrophic Leave Policy set forth in the City's current Administrative Policy Manual.

ARTICLE XVI- HOLIDAYS

- 16.1 Shift Employees in the LPF shall earn 156 hours of holiday leave per year. In January of each year, every shift employee's holiday account shall be credited with 156 hours. Employees hired mid-year or terminating mid-year shall have holiday hours credited or deducted at the rate of 6.0 hours per pay period.
- 16.2 A shift employee may opt to schedule holidays or to be compensated at the straight time rate for all hours of holiday leave. During the course of the year, an employee who opted to use scheduled holidays may at their request and at the sole discretion of the Fire Chief, schedule a day off in lieu of cash payment. Each year, the pay period in which December 1 falls, employees shall be paid for the unused holidays at the straight-time rate as of December 31 of the year in which the holidays were earned.
- 16.3 Non-shift employees shall observe 9 1/2 fixed holidays per year:
- | | |
|------------------------------|--------------------------------------|
| ◇ New Year's Day | January 1 |
| ◇ Martin Luther King Day | 3 rd Monday in January |
| ◇ President's Day | 3 rd Monday in February |
| ◇ Memorial Day | 4 th Monday in May |
| ◇ Independence Day | July 4 |
| ◇ Labor Day | 1 st Monday in September |
| ◇ Thanksgiving Day | 4 th Thursday in November |
| ◇ Day after Thanksgiving Day | Friday following Thanksgiving Day |

- | | |
|------------------------------|-------------|
| ◇ Christmas Eve (four hours) | December 24 |
| ◇ Christmas Day | December 25 |

The employee shall also be granted four additional holidays to be taken at a time mutually agreeable to the employee and the Fire Chief.

If a scheduled holiday falls on a regularly scheduled day off the employee shall take the days off the day preceeding or day succeeding the holiday. Floating holidays shall be prorated upon hiring and termination at the rate of one holiday for each three-month period worked.

- 16.4 Nothing in this MOU is construed to change the manner in which holidays or vacations are scheduled.
- 16.5 It is mutually agreed that two represented employees per shift shall be allowed to schedule vacations or holiday time. Leave for sickness, injury, or leave for school shall not effect this time off.

ARTICLE XVII - LEAVES OF ABSENCE

17.1 Leaves of Absence

The City and LPF mutually agree that inability to return to work after an employee's sick leave has been exhausted shall be considered an urgent and substantial reason for the granting of a leave of absence in accordance with the Leave of Absence policy in the City of Lodi Administrative Policy Manual.

- 17.2 The City interprets this Section as providing that the conditions under which an employee shall be restored to employment on the termination of leave of absence shall be stated as clearly as possible at the time by the City in conjunction with the granting of the leave of absence. The City reaffirms its policy that an employee's status as a permanent employee is not impaired by such leave of absence.
- 17.3 Employees who are placed in a Leave Without Pay status following the expiration of sick leave, vacation, or compensatory time off, such that the employee is no longer in a pay status shall not receive employer paid employment benefits. However, if the leave is for medical reasons the medical insurance ~~will~~ **shall** be carried for three months at the City's expense. Other health benefits may be continued at the employee's expense.
- 17.4 Firefighters are entitled to leave without pay or other benefits for up to four months from the date of disability for disabilities because of pregnancy, miscarriage, childbirth, or recovery therefrom when sick leave has been exhausted. The date on

which the employee shall resume duties shall be determined by the employee on leave and the employee's physician.

- 17.5 An employee on leave for pregnancy disability under this policy shall be entitled to return to the same position, or to a position comparable to that held at the time the leave commenced. A physician's release must be provided prior to an employee's return to work.
- 17.6 An employee seeking pregnancy/disability leave shall be required to provide a reasonable notice in writing (not less than four weeks) to the City of the anticipated date upon which leave shall commence, although the commencement date shall vary according to the employee's actual disability. She must also provide an estimate of the duration of the leave.

ARTICLE XVIII - SICK LEAVE

- 18.1 Shift employees shall accumulate sick leave with pay at the rate of 5.54 hours per pay period. Employees working a 40-hour week shall earn 3.69 hours per pay period.
- 18.2 Sick leave accumulated shall be unlimited.
- 18.3 One working day is defined as 12 work hours (1 duty day) for all LPF personnel working on a shift schedule.
- 18.4 Absence to care for a member of an employee's immediate family is authorization to use up to 72 hours of accumulated sick leave. Generally no more than 120 hours of family sick leave shall be approved in one calendar year.

ARTICLE XIX - VACATION

- 19.1 From 0 through 5 years of continuous employment, vacation shall accrue at the rate of 5.54 hours per pay period.
- 19.2 From 6 through 15 years of continuous employment, vacation shall accrue at the rate of 8.31 hours per pay period.
- 19.3 At the completion of 15 years of continuous employment, vacation shall accrue at the rate of 11.08 hours per pay period.
- 19.4 At the completion of 25 years of continuous employment, vacation shall accrue at the rate of 13.85 hours per pay period.

- 19.5 One (1) working day is defined as twelve (12) work hours (1 duty day) for all Fire Department personnel working on a shift schedule.

Chapter 3. Insurance and Retirement

ARTICLE XX – CHIROPRACTIC INSURANCE

- 20.1 Chiropractic coverage, up to a maximum of \$750, shall be included in the medical insurance plan.
- 20.2 Notwithstanding the addition of chiropractic coverage to the medical plan, the following individuals shall continue to be allowed to receive chiropractic services from their present chiropractors and be reimbursed for such chiropractic care and chronic physical therapy to a maximum benefit of 80% of the first \$750 of coverage charges per fiscal year (July 1 to July 1) per person.

COVERED INDIVIDUALS
Newman, Richard and Jackie

PRESENT CHIROPRACTORS
Dr. Bader, Lodi

- 20.3 The City shall pay the full costs of premiums for the employee and dependent(s) during the life of this agreement.

ARTICLE XXI - DENTAL INSURANCE

- 21.1 The City shall provide Stanislaus Foundation dental plan or an equivalent level of benefits for the term of this agreement.
- 21.2 The City shall pay the increased cost of such premiums for the life of the agreement.

ARTICLE XXII - MEDICAL INSURANCE

- 22.1 All employees shall be offered medical insurance for themselves and dependents through CalPERS medical plans. The City shall pay 100% of the premium for employees only up to the highest HMO available in Lodi. The City shall pay the balance for the highest cost HMO Plan available in Lodi for the employee with one

dependent less \$80.00 per month, and employee with a family less \$104.00 per month.

- 22.2 Any employee who is otherwise covered by a medical plan and chooses not to utilize the full extent of medical coverage available to him or her and, as applicable, to his or her dependent(s) may opt to receive fifty (50) percent of the highest HMO plan referenced in 22.1 provided however, that (a) such election shall only be available to the extent allowed by the City's insurer, and (b) this shall not be construed to allow individuals without dependents to receive any portion of the dependent premium.

ARTICLE XXIII - RETIREMENT PLAN

- 23.1 The City shall provide the PERS retirement program commonly known as the "3% at 50 program". Said program shall include the following additional benefits:

1959 Survivor benefits - third tier
Single Highest Year
Sick Leave Conversion
Military Service Credit

- 23.2 The City shall pay into each employee's PERS account 9.0%.

ARTICLE XXIV - SICK LEAVE CONVERSION

- 24.1 For all unused sick leave, a represented employee with ten years of employment with the City shall be eligible to receive medical, dental and vision insurance coverage upon retirement (but not upon resignation, transfer or termination) on the following basis:

After 10 years of employment by the City, the number of hours of unused sick leave shall be reduced by 16 2/3%. The remaining balance shall be converted into an equivalent number of days. (**NOTE:** A day is equivalent to 12 hours for employees on a 56-hour week schedule and 8 hours for an employee on a 40-hour week schedule). The number of days shall be multiplied by the then current monthly premium being paid for the employee and if applicable his dependents. 50% of that dollar value shall be placed into a "bank" to be used for medical, dental and vision insurance premiums for the employee and dependent. For each year that an employee has been employed in excess of 10 years, 2 1/2% shall be added to the 50% before valuing the unused sick leave, not to exceed 100% of that dollar value.

For example:

Robert Smith retires with 20 years service and 1800 hours of unused sick leave. Monthly medical insurance premiums are \$344.45 for him and his wife.

$$\begin{aligned} 1800 - (1800 \times 16 \frac{2}{3}) &= 1500 \text{ hours} \\ 1500 \div 12 &= 125 \text{ days} \times 75\% = 93.75 \\ 93.75 \times \$344.45 &= \$ 32,292.19 \end{aligned}$$

This amount shall be reduced each month by the current premium(s) for the employee and dependent until the balance is gone. In the event the retiree dies the remaining bank shall be reduced by 50% and the survivor may use the bank until the balance is gone.

- 24.2 In the event an active employee dies before retirement and that employee is vested in the sick leave conversion program, the surviving dependents shall have an interest in one-half the value of the bank as calculated in Section 24.1.
- 24.3 Represented employees who retire on a service retirement and are eligible to convert accrued, unused sick leave into City paid insurance upon retirement shall be given the option of purchasing, at the retiree's cost, additional insurance for a period of time equal to the period of time for which they received City paid insurance upon retirement.

Employee's option shall be exercised upon expiration of the City paid coverage.

- 24.4 In accordance with the sick leave conversion provision outlined in this MOU, a surviving spouse of either an active or retired member may be continued on the medical insurance plan and/or dependent coverage at the appropriate premium for the same period as if the employee had not died.
- 24.5 An employee eligible for the sick leave conversion program defined in Section 24.1 may choose instead to receive a cash settlement for all or part of unused sick leave at the rate of \$.30 on the dollar. Under this provision, the employee's sick leave balance at the time of retirement shall be converted to dollars at the employee's current pay rate.
- 24.6 Out of area retirees may receive reimbursement for insurance premiums up to the City's liability as specified in Section 24.1.
- 24.7 The City shall modify its contract with PERS to add credit for unused sick leave per Government Code Section 20862.8. This benefit is available to all employees regardless of the date hired; however, it is the only sick leave conversion benefit

available to employees hired after December 6, 1995. Reporting of unused sick leave shall be pursuant to PERS regulations on said issue. If an eligible employee opts to utilize the provisions of Section 24.1 the City shall report to PERS they have zero (0) hours of unused sick leave.

ARTICLE XXV- VISION CARE

- 25.1 The City shall provide and pay for a vision care plan underwritten by VSP or comparable vision care plan. Such comparable vision care plan shall be the same as the plan offered to mid and executive management employees in the City. The plan shall have a \$25 deductible, shall provide annual examinations and lenses. Frames are available every two years.

Chapter 4. Safety

ARTICLE XXVI - SAFETY COMMITTEE

- 26.1 A six-member Joint Safety Committee shall be formed to include three members of the LPF. This committee shall be charged with reviewing and making proposed solutions to items relating to safety standards, equipment, procedures, clothing and other safety related matters.

Chapter 5. Work Hours, Schedules, Meals

ARTICLE XXVII- 56-HOUR WORK WEEK

- 27.1 The work schedule of Firefighters shall be a work schedule of "56 hours per week" with three on-duty shifts in nine 24-hour periods. For purposes of the FLSA, it is mutually understood the City has declared a 27 day work cycle.
- 27.2 If an employee assigned to a 56 hour work week schedule terminates his/her employment in the middle of a two week payroll cycle, the employee's pay for that cycle shall be computed by multiplying the number of days between the first day of the payroll cycle and the last shift worked by eight (8) hours or the number of actually worked in that payroll cycle, whichever is greater.
- 27.3 It is agreed that the work schedule of the Fire Inspector is a 40-hour week and that all holiday, vacation, and sick leave benefits are based on a 40-hour week rather than a 56-hour week.
- 27.4 In order to convert the hours for employees that move from a 40 hour work week to a 56 hour work week the following formulas shall be applied:

For conversion of Vacation:

From 40 to 56 hours.....Multiply by 1.8

From 56 to 40 hours.....Multiply by .555556

For conversion of Holiday and Sick Leave and Comp Time:

From 40 to 56 hours.....Multiply by 1.5

From 56 to 40 hours.....Multiply by .666667

ARTICLE - XXVIII - FLEXIBLE STAFFING

- 28.1 For all employees hired prior to December 6, 1995: Upon successful completion of all education, performance and longevity requirements, the employee shall be promoted to Fire Engineer. EXCEPTION: If a current Fire Engineer promotional list is in place, employees hired prior to December 6, 1995 shall be placed at the bottom of the current Fire Engineer promotional list and promote at the expiration of the current Fire Engineer Promotional list. This article will expire one year from the date this MOU is adopted by the City Council.

ARTICLE XXIX - SHIFT TRADES

- 29.1 It is mutually agreed that each employee may trade shifts.

Employees on initial probation shall not be entitled to participate in a shift trade except that a shift trade shall be permitted for job related educational purposes.

- 29.2 It is expressly understood that shift trades are requested by employees on a voluntary basis and are granted exclusively for employee convenience.
- 29.3 A shift trade commitment shall be considered the equivalent of the employee's regularly assigned work day. Any member of the bargaining unit who agrees to a shift trade, but fails to report to work the agreed shift without a valid excuse may be subject to disciplinary action. An employee who agrees to exchange time with another employee and who then fails to report to work the agreed time because of illness, or who reports, but leaves early due to illness, may be required to provide a doctors note to verify the illness.
- 29.4 In the event that the person who had agreed to work is unable to do so, he/she shall make the necessary arrangements to fulfill the obligation. This can be accomplished by: trading with another employee meeting the shift trade requirements; forfeiting sick, holiday, compensatory time, or vacation time, whichever is appropriate based on department policy; or injury leave if appropriate.

Chapter 6. Association/City Issues

ARTICLE XXX - ALCOHOL, SMOKING AND DRUGS

- 30.1 No member of the Fire Department hired after October 1, 1987 may at any time use any form of tobacco. This prohibition is considered a condition of employment.
- 30.2 The LPF shall be covered under the *Drug-Free Workplace* policy and procedure. In addition, the LPF shall be covered under the *Drug and Alcohol Testing* policy and procedure with the exception of random testing. (Section 34520(e) of the California Vehicle Code exempts fire employees from the provisions of the Omnibus Transportation Employee Testing Act of 1991.)
- 30.3 In the event an employee is involved in an accident while operating a City vehicle the employee shall not leave the scene of the accident until a determination for drug and/or alcohol testing has been made by the appropriate supervisor.
- 30.4 In the event an employee is being referred to drug and/or alcohol testing, the employee shall have the right to representation or a witness. The witness may include an on-duty employee, as long as there is no interference with business necessity.

- 30.5 Supervisors directing an employee to drug and/or alcohol testing shall document at the time of direction the reason(s) for such determination of the *Reasonable Suspicion Test* form, and present that form to the employee.
- 30.6 The reporting of prescription medication being taken by an employee to his/her supervisor shall be kept in confidence.
- 30.7 In the event an employee's locker or storage area is to be searched, the employee shall have the right to representation or a witness. The witness may include an on-duty employee, as long as there is no interference with business necessity.
- 30.8 If a member of the Fire Department has a drug, tobacco or alcohol problem or dependence, the City shall pay the difference between the employee's insurance and the cost of an appropriate rehabilitation program.
- 30.9 All supervisory employees, including those in the rank of Fire Captain, shall attend training on making a reasonable suspicion determination of being under the influence of drugs and/or alcohol, and the appropriate referral process. Such training shall be provided by the City of Lodi. Non-supervisory employees may attend the training provided that there is adequate attendance capacity, and that the cost of the training shall be borne by the employee.

ARTICLE XXXI - CITY RIGHTS

- 31.1 It is further understood and agreed between the parties that nothing contained in this MOU shall be construed to waive or reduce any rights of the City, which include, but are not limited to, the exclusive rights:
- ◇ to determine the mission of its constituent departments, commissions and boards;
 - ◇ to set standards of service;
 - ◇ to determine the procedures and standards of selection for employment;
 - ◇ to direct its employees;
 - ◇ to maintain the efficiency of governmental operations;
 - ◇ to determine the methods, means and personnel by which government operations are to be conducted;
 - ◇ to take all necessary actions to carry out its mission in emergencies; and

- ◇ to exercise complete control and discretion and the technology of performing its work.

31.2 City rights also include the right to determine the procedures and standards of selection for promotion, to relieve employees from duty because of lack of work or other legitimate reasons, to take disciplinary action, and to determine the content of job classifications; provided, however, that the exercise by the City of the rights in this paragraph does not preclude employees or their recognized employee organizations from filing grievances regarding the practical consequences that decisions on such matters may have on wages, hours or other terms and conditions of employment.

Article XXXII - Complete Agreement

32.1 The parties acknowledge that during the negotiations which resulted in this MOU, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the scope of negotiations, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in the MOU. Any other prior existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Article XXXIII - CONCERTED ACTIVITIES

33.1 Represented employees agree that they shall not strike, withhold services, engage in "slow downs" or "sick ins" or participate in any other form of concerted activity which is intended to or which does adversely affect job performance or rendering of City services.

Article XXXIV - EMPLOYEE REPRESENTATION

34.1 This Memorandum of Understanding (hereinafter referred to as "MOU") is entered into between representatives of the City of Lodi (hereinafter referred to as "City") and representatives of the Lodi Professional Firefighters (hereinafter referred to as "LPF").

The parties to this MOU acknowledge and agree that this MOU constitutes the result of meeting and conferring in good faith as contemplated by Section 3500 et seq. of the Government Code of the State of California, and further acknowledge

and agree that all matters upon which the parties reached agreement are set forth in this MOU.

The terms and conditions of this MOU are applicable to those employees in those positions represented by the LPF of the City of Lodi, i.e., Firefighter I, Firefighter II, Fire Engineer, Fire Captain, and Fire Inspector. It is mutually agreed that wages, hours, and other terms and conditions of employment of such employees shall be as hereinafter set forth. Except as specifically stated in this Memorandum, all existing benefits currently being furnished to employees and all existing terms and conditions of employment are to continue in effect unless and until the parties meet and confer regarding a change in such existing benefits, terms or conditions of employment.

The terms and conditions of this MOU shall continue in effect during the term of this MOU. The parties agree as follows:

- 34.2 The City and the LPF mutually agree that the City shall grant dues deduction to City employees who are members of the LPF in accordance with the terms and conditions set forth in Section 4, Rule 2 of City of Lodi Resolution No. 3344 entitled "Adopting Rules and Regulations to Implement Provisions of the Employee-Employer Relations Resolution." The LPF shall indemnify, defend and hold the City of Lodi harmless against any claims made and against any suit instituted against the City of Lodi on account of check-off of said employee organization's dues. In addition, the LPF shall refund to the City of Lodi any amounts paid to it in error upon presentation of supporting evidence.

Changes in the LPF membership dues rate shall be certified to the City, in writing, over the signature of the LPF President. The change shall be implemented as soon as practicable, but in no event later than thirty (30) days after the notification.

- 34.3 LPF shall maintain exclusive representation rights during the term of this MOU. Every employee covered by this MOU who is a member of LPF twenty (20) days after the signing of this MOU shall, as a condition of employment, maintain his or her membership in good standing in accordance with the Constitution and Bylaws of the LPF during the term of this agreement.
- 34.4 No employee covered by this Memorandum of Understanding shall be discriminated against by the City or by the Union with respect to any job benefits or other conditions of employment accruing from this agreement because of union membership, non-membership in the union, race, color, sex, creed, national origin, marital status, disability or political affiliation. It is understood that violations of this section are not subject to arbitration.
- 34.5 The City shall make available a period of one hour to the LPF in each recruit class with an end toward education of each employee of the rights and benefits under the

collective bargaining agreement, as well as other association benefits, and the responsibilities of the employee and the association.

- 34.6 The City and LPF agree and understand that if any section of this MOU in any way conflicts with the terms and conditions of employment stated in other authorities, such as personnel rules, administrative policy and procedure manual, city resolutions, or city ordinances, any ambiguity shall be resolved in favor of the MOU language. If the MOU is silent on an issue, the current applicable document (i.e. policy manual) is controlling.
- 34.7 Members of the Lodi Professional Firefighters may contribute, individually, to an hourly account bank. This bank shall be monitored and administered by the Lodi Professional Firefighters Secretary. Hours may not exceed more than 600 hours on a yearly basis. The President of the Lodi Professional Firefighters shall designate members that can use the hours. No more than two persons shall be off at a time and this shall not effect the regular time off calendar. Five days notice must be given to the Fire Chief prior to using the bank. Hours may be donated from member's vacation leave, holiday leave or compensatory time off. The member's leave account shall be charged an equivalent amount of time required to cover the absence of the member utilizing the LPF bank. A form shall be generated for this purpose by the Lodi Professional Firefighters to notify the Fire Chief and Finance.

ARTICLE XXXV - GRIEVANCE PROCEDURE

- 35.1 This grievance procedure shall be used to process and resolve disputes regarding the interpretation or application of any of the terms and conditions of this MOU, letters of understanding, and formal interpretations and clarifications executed by the LPF and the City.

The intent of this procedure is to resolve grievances informally at the lowest possible level and to provide an orderly procedure for reviewing and resolving grievances promptly.

The term "day" means a working day i.e. Monday through Friday excluding fixed City Hall holidays.

A grievance is a good faith complaint of one or a group of employees or a dispute between the City and the LPF involving the interpretation, application, or enforcement of the express terms of this Agreement and other express written terms and conditions of employment or clear past practices.

As used in this procedure, the term "party" means an employee, the LPF, the City or the authorized representatives of any party. The employee is entitled to representation through all the steps in this procedure.

Matters of discipline are to be handled exclusively in accordance with the provisions of section 35.4.

35.2 INFORMAL PROCEDURE

The informal procedure must be used as an initial step in all grievances. An employee or their representative having a grievance arising from employment in the municipal service shall seek adjustment of the grievance initially through verbal contact with their immediate supervisor within twenty (20) working days of the date of the action being grieved, or the date the grieving party became aware of the incident which is the basis of the grievance. The employee or his/her representative shall state the nature of the grievance and any pertinent information required for the supervisor to sufficiently investigate the incident and resolve the grievance. Should the immediate supervisor be unable to make a satisfactory adjustment, the employee or their representative may seek adjustment through verbal contact to the next higher level of supervision up to and including the Fire Chief. The time allowed between steps in this process is ten (10) working days. All verbal contacts shall be documented as to the date, time and place of the contact.

In matters involving disputes between two employees (including personality conflicts between an employee and his/her supervisor), the two employees should meet in an attempt to resolve their differences. If they cannot resolve the issues between themselves, the complaint procedure outlined in the Lodi Fire Department Policy Manual shall be used as the Informal Grievance Procedure.

Should the employee progress through the above steps and find that the Fire Chief is unable to make a satisfactory adjustment within the time frame given, or is a party to the grievance, the employee or his representative may seek adjustment through the Formal Grievance Procedure.

35.3 FORMAL PROCEDURE

An employee who has not received satisfactory adjustment through the use of the Informal Grievance Procedure may, within ten (10) working days of the last time deadline of the Informal Procedure, file a Formal Grievance. Initiation of the formal grievance procedure requires that the grievance be submitted in writing. The steps of the Formal Grievance Procedure are as follows:

Step A. Class Action Grievances or a Lodi Fire Department Grievance Form is filed with the Fire Chief. If satisfactory adjustment is not attained the employee or his/her representative may proceed to Step B within ten (10) working days.

Step B. Class Action Grievances or A Lodi Fire Department Grievance Form is filed with the City Manager. The City Manager or designee shall investigate the grievance and shall respond in writing within ten (10) working days. If satisfactory adjustment is not attained the employee or his representative may proceed to Step C within ten (10) working days.

Step C If the grievance is not resolved by the City Manager or designee, arbitration shall be the final level of appeal for grievances and discipline. It is agreed by both parties that the decision of the arbitrator is binding and final on both parties and that if this procedure is utilized all other avenues of appeal are waived. If arbitration is chosen the City must be notified by the grievant or his/her representative within fifteen (15) working days following the City Manager's decision.

Within ten (10) working days after the request for arbitration is received by the City or at a date mutually agreed to by the parties, the parties shall meet to select an impartial arbitrator. If no agreement is reached at this meeting, the parties shall immediately and jointly request the State Conciliation and Mediation Service to submit to them a panel of five (5) arbitrators from which the City and the LPF shall alternately strike names until one (1) name remains; this person shall be the arbitrator. If the State Conciliation and Mediation Service cannot provide a list of five (5) arbitrators, the same request shall be made of the American Arbitration Association.

To insure that the arbitration process is as brief and economical as possible, the following guidelines shall be adhered to:

1. An arbitrator may, upon mutual consent of the parties, issue a decision, opinion or award orally upon submission of the arbitration.
2. Both parties and the arbitrator may tape record the hearing.
3. There shall be no official transcript required; however, either party may utilize a court reporter at its own sole expense. The cost of a court reporter required by an arbitrator shall be shared equally by the parties.
4. The parties may agree to prepare a joint letter submitting the issue(s) in dispute. The letter shall present the matter on which arbitration is sought and shall outline the MOU provisions governing the arbitration. It may contain mutually agreed on stipulations of fact

and it may be accompanied by any documents that the parties mutually agree shall be submitted to the arbitrator in advance of the hearing which may not necessarily be stipulations of fact. Further, if the parties mutually agree, the entire matter may be submitted to arbitration for review without a hearing. Absent agreement to prepare a joint letter, the parties may submit separate letters.

5. The strict rules of evidence are not applicable but shall be of a type or kind relied upon by prudent people in the conduct of serious business and the hearing shall be informal.
6. The parties have the right to present and cross examine witnesses issue opening and closing statements, and file written closing briefs. Testimony shall be under oath or affirmation.
7. The arbitrator may exclude testimony or evidence which he/she determines irrelevant or unduly repetitious.
8. The arbitrator may exclude witnesses and observers from the hearing at his or her discretion.
9. The arbitration hearing shall be held on the employer's premises.
10. The cost of arbitration shall be borne equally by the parties. However, the cost, if any, of cancellation or postponement shall be the financial responsibility of the party requesting such delay unless mutually agreed by the parties.

The decision, opinion, or award shall be based on the record developed by the parties before and during the hearing, unless otherwise agreed to by the parties. The decision shall be in writing and shall contain the crucial reasons supporting the decision and award.

The arbitrator has no power to add to, subtract from, or modify the terms of the MOU or the written ordinances, resolutions, rules, regulations and procedures of the City, nor shall he/she impose any limitations or obligations not specifically provided for under the terms of the MOU. The arbitrator shall be without power or authority to make any decision that requires the City or management to do an act prohibited by law.

The arbitrator has no power to add to a disciplinary action.

The arbitrator's decision shall be final, binding, and precedential and the arbitrator's decision shall possess the authority to make an employee whole to the extent such remedy is not limited by law, including the authority to award back pay, reinstatement, and to issue an order to expunge the record of all references to a disciplinary action if appropriate.

If the City believes that the matter is not arbitrable and/or not grievable, the matter shall be bifurcated. The parties shall select an arbitrator to hear the issue of arbitrability only. In the event that the arbitrator determines the matter to be arbitrable, the parties shall select a second arbitrator to hear the merits of the case.

By filing a grievance and processing it beyond the City Manager the grievant expressly waives any right to statutory remedies for the same contract remedies that were available through arbitration or to the exercise of any legal process other than is provided by the grievance/arbitration procedure for those contractual remedies under this contract. The process in a grievance beyond the City Manager shall constitute an express election on the part of the grievant that the arbitration procedure is the chosen forum for resolving the issues contained in the grievance, and that the grievant shall not resort to any other forum or procedure for resolution or review of the issues. The parties do not intend by the provisions of these paragraphs to preclude the enforcement of any arbitration award in any court of competent jurisdiction.

Allegedly discriminatory acts by the city may be addressed through the judicial system, DFEH, EEOC, and/or the City's internal complaint procedure system as provided by law. Allegedly discriminatory acts are not subject to this procedure.

35.4 GRIEVANCE INVOLVING A DISCIPLINARY ACTION

This section sets forth the exclusive means for grieving disciplinary actions in the form of a written reprimand, demotion, suspension or dismissal. In the event the employee wishes to challenge the City Manager's final decision on such discipline, the employee shall appeal the decision to binding arbitration, commencing with Step C of Article 35.3 of this Agreement. All other, lesser forms of discipline shall be reviewable by the Fire Chief without a further right of appeal.

ARTICLE XXXVI - LAYOFF PROCEDURE

- 36.1 It is mutually agreed by both parties that the layoff procedure, incorporated in the Policy and Procedure manual, dated May 1, 1995 is included in this MOU by reference and it is further agreed that both parties interpret it to mean that time served in a higher level shall be counted at a lower level for purposes of determining order of layoff.

ARTICLE XXXVII - PHYSICAL FITNESS

- 37.1 It is agreed that the physical fitness program shall be continued and shall meet the following goals:

1. Provide a complete physical examination on an annual basis. These examinations to be performed by professional medical staff contracted for by the City.
2. Provide a fitness assessment which will evaluate each individual employee's fitness as compared to the YMCA normative scores which are defined as:

"a percentage based on fitness evaluations performed by the YMCA and are categorized according to age group and sex."

The fitness assessments shall be performed by professional assessors contracted for by the City.

3. Provide an individual program of exercise based on age, sex and present physical condition.
4. Provide attainable goals for each individual which would be measurable through the fitness assessment provided.
5. Provide for in-house exercise activities.
6. Provide an exercise program which shall improve cardiovascular conditioning, body fat composition, flexibility, grip strength, abdominal strength, low back strength, chest (arm) strength, back strength, quadriceps and hamstring strength.

It is further agreed that:

1. The program shall be mandatory for all employees in the bargaining unit.

2. The program shall be scheduled as a high priority item and work out times shall normally be available between 0800 and 1700 hours excluding lunch period and breaks. The City shall provide adequate equipment to carry out the intent of the program.
3. The equipment used for this program is not to be used by anyone other than City of Lodi Fire personnel.
4. Confidentiality of records shall be maintained for the protection of the employees.

ARTICLE XXXVIII - PROBATION

- 38.1 During probationary period, twelve (12) months, the new hire or promotional employee shall be entitled to sick leave benefits. Upon completion of probation, employees are eligible for merit increases.
- 38.2 Employees on initial probation may not utilize vacation accruals.
- 38.3 Probationary releases are appealable only to the extent required by law.

ARTICLE XXXIX - SEVERABILITY

- 39.1 In the event that any provision of this MOU is found by a court of competent jurisdiction to be invalid, all other provisions shall be severable and shall continue in full force and effect.

ARTICLE XXXX - TERM

- 40.1 This MOU covers the period from July 1, 2003 through June 30, 2006.

END

XXXXXX

ATTACHMENT 1

**SIDE LETTER RE RULES FOR PERSONNEL ADMINISTRATION
BETWEEN
THE CITY OF LODI AND THE LODI PROFESSIONAL FIREFIGHTERS**

The Rules for Personnel Administration shall be applicable to the firefighters bargaining unit, with the exception of the attached changes (2 pages), which comprise amendments to those rules in respect to the fire fighters bargaining unit.

Except as required by operational/or business necessity impacting City employees as a whole, there shall be no changes to the Rules for Personnel Administration during the term of this agreement. This does not prevent the parties from mutually agreeing to meet and confer over proposed changes to the Rules during the term of this Agreement.

Dated: _____

Dated:_____

Joanne M. Narloch
City of Lodi

Pete Iturraran
Lodi Professional Firefighters

SCHEDULE A

LPF Positions
Salary Schedule effective 10/1/2003

Classification	Current Step E	2.5% COLA	Plus 3.5% Salary Adjustment				
			Step A	Step B	Step C	Step D	Step E
Fire Captain	5,442.28	5,578.34	4,749.94	4,987.43	5,236.81	5,498.65	5,773.58
Fire Engineer	4,701.25	4,818.78	4,103.18	4,308.34	4,523.75	4,749.94	4,987.44
Firefighter I	3,867.72	3,964.41	3,375.69	3,544.47	3,721.69	3,907.78	4,103.17
Firefighter II	4,264.13	4,370.73	3,721.67	3,907.75	4,103.14	4,308.29	4,523.71
Fire Inspector I	4,936.29	5,059.70	4,308.32	4,523.73	4,749.92	4,987.42	5,236.79



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Destruction of Certain Finance Department Records

MEETING DATE: May 5, 2004

PREPARED BY: Finance Director

RECOMMENDED ACTION: That the City Council adopt resolution approving the destruction of the hereinafter-listed City of Lodi records.

BACKGROUND INFORMATION: In accordance with Government Code, section 34090, permission is requested to destroy the following obsolete City records:

1. Next Step/Leave Balances	1999-2002
2. Daily Exception Timesheets	1999-2002
3. Payroll Edit Registers	1999-2002
4. Payroll Journal Detail	1999-2002
5. Deferred Comp Payroll Deduction Reports	1999-2002*
6. Payroll Tax Summaries	1999-2002*
7. Payroll Integrity Reports	1999-2002
8. Payroll Voucher Detail	1999-2002*
9. Payroll Check Registers	1999-2002*
10. Wage Attachment Report	1999-2002*
11. Farmers & Merchants Bank & B of A Bank Statements	1999-2002
12. ICS, ICA Activity	1999-2002
13. Purchase Orders	1999-2002
14. Accounts Payable Final Post	1999-2002
15. Accounts Payable Payment Register	1999-2002
16. Accounts Payable Payment Group	1999-2002
17. Accounts Payable Cash Requirements	1999-2002
18. Accounts Payable Posting Edit	1999-2002
19. Accounts Payable Edit	1999-2002
20. Collector's Daily Reports	1999-2002
21. Wire Transfers	1999-2002
22. General Ledger	1999-2002*
23. Trial Balance	1999-2002*
24. Utility Customer Contracts (service orders)	1997-1999
25. Utility Billing Registers	1997-1999
26. Utility Billing Daily Audit Reports	1997-1999
27. Utility Final Pages and Utility Billing Pages	1997-1999
28. Window Receipts	1997-1999

APPROVED: _____
H. Dixon Flynn, City Manager

29. Business Tax Applications	1997-1999
30. Cash Receipt Registers	1997-1999
31. Inactive Account Registers	1997-1999
32. Inactive Accounts in Arrears Registers	1997-1999

* Information is stored on-line.

FUNDING: None.

Coriene J Wadlow
Senior Accountant

VM/ns

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY
COUNCIL AUTHORIZING DESTRUCTION OF
CERTAIN RECORDS RETAINED BY THE
FINANCE DEPARTMENT

=====

WHEREAS, in accordance with Government Code Section 34090, the City Attorney has filed his written consent to the destruction of certain records retained by the Finance Department, an inventory of which is attached hereto, marked Exhibit A, and thereby made a part hereof;

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that:

1. The records heretofore identified are no longer required.
2. The Lodi City Council finds that the City Attorney has given his written consent to the destruction of the records inventoried on Exhibit A attached hereto and the destruction of those records is hereby authorized.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

EXHIBIT A - DESTRUCTION OF RECORDS

INVENTORY OF CERTAIN RECORDS RETAINED BY THE LODI FINANCE DEPARTMENT REQUESTED TO BE DESTROYED PURSUANT TO GOVERNMENT CODE SECTION 34090 AS SHOWN BELOW:

1. Next Step/Leave Balances	1999-2002
2. Daily Exception Timesheets	1999-2002
3. Payroll Edit Registers	1999-2002
4. Payroll Journal Detail	1999-2002
5. Deferred Comp Payroll Deduction Reports	1999-2002*
6. Payroll Tax Summaries	1999-2002*
7. Payroll Integrity Reports	1999-2002
8. Payroll Voucher Detail	1999-2002*
9. Payroll Check Registers	1999-2002*
10. Wage Attachment Report	1999-2002*
11. Farmers & Merchants Bank & B of A Bank Statements	1999-2002
12. ICS, ICA Activity	1999-2002
13. Purchase Orders	1999-2002
14. Accounts Payable Final Post	1999-2002
15. Accounts Payable Payment Register	1999-2002
16. Accounts Payable Payment Group	1999-2002
17. Accounts Payable Cash Requirements	1999-2002
18. Accounts Payable Posting Edit	1999-2002
19. Accounts Payable Edit	1999-2002
20. Collector's Daily Reports	1999-2002
21. Wire Transfers	1999-2002
22. General Ledger	1999-2002*
23. Trial Balance	1999-2002*
24. Utility Customer Contracts (service orders)	1997-1999
25. Utility Billing Registers	1997-1999
26. Utility Billing Daily Audit Reports	1997-1999
27. Utility Final Pages and Utility Billing Pages	1997-1999
28. Window Receipts	1997-1999
29. Business Tax Applications	1997-1999
30. Cash Receipt Registers	1997-1999
31. Inactive Account Registers	1997-1999
32. Inactive Accounts in Arrears Registers	1997-1999

* Information is stored on-line.

Dated: _____

APPROVED FOR DESTRUCTION

Dated: _____

Vicky McAthie
Finance Director

D. Stephen Schwabauer
Interim City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Authorize Transportation Service to Micke Grove Park for the Head Start Program on May 12, 2004, Upon Approval from the San Joaquin Regional Transit District

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council authorize transit service for the Lodi Head Start program to Micke Grove Park on May 12, 2004.

BACKGROUND INFORMATION: At its March 5, 2003, meeting, the City Council adopted policies and procedures for the use of transit services outside regular operations. Included in the adopted policy was specific language identifying the procedure for utilizing the City's transit services.

This would be treated as standard transit service with each passenger paying the full fare both directions. Joseph Wood, Community Improvement Manager, has qualified the group to utilize CDBG funding for this service. Staff will contact the San Joaquin Regional Transit District for permission to perform a route deviation into their service area. This has been done in the past for community events when the San Joaquin Regional Transit District has been unable to provide the same service.

FUNDING: Fares shall be incurred by the Head Start Program.

Richard C. Prima, Jr.
Public Works Director

Prepared by Tiffani M. Fink, Transportation Manager

RCP/TF/pmf

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Re-introduce Ordinance Amending Lodi Municipal Code Title 13 - Public Services by adding Chapter 13.14 "Stormwater Management and Discharge Control" relating to Stormwater

MEETING DATE: May 5, 2004

PREPARED BY: Interim City Attorney

RECOMMENDED ACTION: That the City Council re-introduce Ordinance amending Lodi Municipal Code Title 13 – Public Services by adding Chapter 13.14 "Stormwater Management and Discharge Control" relating to stormwater.

BACKGROUND INFORMATION: As you will recall, this Ordinance was introduced at the meeting held December 17, 2003, and adopted at the January 7, 2004 City Council meeting. Unfortunately, the wrong version was inadvertently prepared for adoption, leaving some blanks not filled in as required. In order to correct the omission, staff recommends re-introducing and adopting this Ordinance.

FUNDING: None Required.

Respectfully submitted,

D. Stephen Schwabauer
Interim City Attorney

APPROVED: _____
H. Dixon Flynn, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LODI AMENDING LODI MUNICIPAL CODE TITLE 13 – PUBLIC
SERVICES BY ADDING CHAPTER 13.14 “STORMWATER
MANAGEMENT AND DISCHARGE CONTROL” RELATING TO
STORMWATER

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 13 – Public Services is hereby amended by addition of Chapter 13.14 “Stormwater Management and Discharge Control” to read as follows:

Chapter 13.14

STORMWATER MANAGEMENT AND DISCHARGE CONTROL

Article 1. General Provisions

Sections:

- 13.14.010 Title
- 13.14.020 Purpose and Intent
- 13.14.030 Definitions
- 13.14.040 Conflicts with Other Laws

Article II. Discharge Restrictions

- 13.14.050 Discharge of Nonstormwater Prohibited
- 13.14.060 Exceptions to Discharge Prohibition
- 13.14.070 Groundwater Discharges
- 13.14.080 Discharge in Violation of Permit
- 13.14.090 Illicit Connections Prohibited
- 13.14.100 Concealment and Abetting
- 13.14.110 Acts potentially Resulting in Violation of Federal Clean Water Act and Porter Cologne Act
- 13.14.120 Reduction of Pollutants in Stormwater
- 13.14.130 Containment and Notification of Spills

Article III. Service Charges and Fees

- 13.14.140 Storm Drain and Cooling Water Service Charges
- 13.14.150 Billing and Collections

Article IV. Construction Generally

- 13.14.160 Permit
- 13.14.170 Design Standards

Article V. Extensions

- 13.14.210 Purposes
- 13.14.220 Applications
- 13.14.230 Applicant's Obligation
- 13.14.240 Extension for Full Frontage Width
- 13.14.250 Minimum Diameter
- 13.14.260 Reimbursement – Oversize Mains

Article VI. Administration

- 13.14.310 Monitoring Facilities
- 13.14.320 Inspection, Sampling, Monitoring and Analysis
- 13.14.330 Accidental Discharge Prevention
- 13.14.340 Confidential Information
- 13.14.350 Special Agreements

Article VII. Enforcement

- 13.14.410 Inspection Authority
- 13.14.420 Enforcement Authority
- 13.14.430 Remedies not Exclusive
- 13.14.440 Compliance Timetable
- 13.14.450 Appeal
- 13.14.460 Disclaimer of Liability
- 13.14.470 City Authority
- 13.14.480 Judicial Review

Article I. General Provisions

- 13.14.010 Title

This chapter shall be known as the City “Stormwater Management and Discharge Control Code,” and may be cited as such, and will be referred to herein as “this chapter.”

- 13.14.020 Purpose and Intent

The purpose of this chapter is to protect and promote the health, safety and general welfare of the citizens of the City by controlling Nonstormwater Discharges to

the Stormwater Conveyance System, by eliminating discharges to the Stormwater Conveyance System from spills, dumping or disposal of materials other than Stormwater, and by reducing Pollutants in urban Stormwater discharges to the maximum extent practicable. This chapter is intended to assist in the protection and enhancement of the water quality of Watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Water Pollution Control Act and amendments thereto and to assure compliance with the conditions set forth by the National Pollution Discharge Elimination System (NPDES) as requirements of Stormwater discharge permits.

13.14.030 Definitions

The following words, when used in this chapter, shall have the following meanings:

“Basin Plan” means the water quality control plan for the San Joaquin River Basin adopted by the Central Valley Regional Quality Control Board, Central Valley Region.

“Best Management Practices” (BMP) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable the discharge of Pollutants directly or indirectly to waters of the United States. “Best management practices” also include treatment requirements, operating procedures, and practices to control plant runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.

“City” means the City of Lodi.

“Development” means the building or placement of any structure or portion thereof. “Development” includes excavation and grading.

“Employee Training Program” means a documented Employee Training Program which may be required to be implemented by a business pursuant to a Stormwater Pollution Prevention Plan for the purpose of educating its employees on methods of reducing discharge of Pollutants to the Stormwater Conveyance System.

“Enforcement Agency” means the City of Lodi through its Public Works Department.

“Enforcement Official” means the Public Works Director or his or her designee or any agent of the City authorized to enforce compliance with this chapter.

“Illegal Discharge” means any discharge to the Stormwater Conveyance System that violates this chapter, or is prohibited by federal, state, or local laws, or which degrades the quality of Receiving Waters in violation of any Plan Standard.

“Illicit Connection” means any physical connection to the Stormwater conveyance system which is not authorized by the City of Lodi or the Regional Water Quality Control Board Central Valley Region.

“National pollution discharge elimination system (NPDES) permit” means a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Division 7, Chapter 5.5 of the California Water Code (commencing

with Section 13370) to control discharges from point sources to waters of the United States.

“Noncommercial Vehicle Washing” means the washing and rinsing of passenger vehicles on private property in which no commercial enterprise is being conducted in the washing of those vehicles.

“Nonstormwater Discharge” means any discharge to the Stormwater Conveyance System that is not entirely composed of Stormwater.

“Order” means current Regional Water Quality Control Board Order or general permit which applies to the city of Lodi together with all amendments.

“Person” means any Person, firm, corporation, business entity, or public agency, whether principal, agent, employee, or otherwise.

“Plan Standard” means any or all applicable requirements of the basin plan or any other approved plan.

“Pollutant” means any contaminant which can degrade the quality of the receiving water in violation of any Plan Standard.

“Premises” means any building, lot, parcel, land or portion of land whether improved or unimproved.

“Public Works Director” means the director of the City of Lodi, Public Works Department or his or her designee.

“Receiving Waters” means surface bodies of water, including creeks, canals, and rivers, which serve as discharge points for the Stormwater Conveyance System.

“Stormwater” means surface runoff and drainage associated with storm events which is free of Pollutants to the maximum extent practicable.

“Stormwater Conveyance System” means those artificial and natural facilities within the City of Lodi, whether publicly or privately owned, by which Stormwater may be conveyed to a Watercourse or waters of the United States, including any roads with drainage systems, streets, alleys, catch basins, pumps, natural and artificial channels, aqueducts, stream beds, gullies, curbs, gutters, ditches, sand and oil separators, open fields, parking lots, impervious surfaces used for parking, and natural and artificial channels or storm drains.

“Stormwater Pollution Prevention Plan” means a document which describes the Best Management Practices to be implemented by the owner or operator of a business or City to eliminate Nonstormwater Discharges and/or reduce to the maximum extent practicable Pollutant discharges to the Stormwater Conveyance System.

“User” means any Person that discharges, causes or permits the discharge of Stormwater into the conveyance system.

“Watercourse” means any natural stream, whether flowing continuously or not, that is fed from permanent or natural sources, and includes, without limitation rivers, creeks, canals, runs, and rivulets.

Any term(s) defined in the Federal Clean Water Act, as amended, and/or defined in the regulations for the Stormwater discharge permitting program issued by the Environmental Protection Agency, as amended, and which are not specifically defined in the above definitions of this section shall, when used in this chapter, have the same meaning as set forth in said act or regulation.

13.14.040 Conflicts with Other Laws

In the event of any conflict between this chapter and any federal or state law, regulation, order, or permit, that requirement which establishes the higher standard for public health or safety shall govern. To the extent permitted by law, nothing in this chapter shall preclude enforcement of any other applicable law, regulation, order or permit.

Article II Discharge Restrictions

13.14.050 Discharge of Nonstormwater Prohibited

Except as provided in Section 13.14.060 of this chapter, it is unlawful for any Person to make or cause to be made any Nonstormwater Discharge. Notwithstanding the exemptions provided in this chapter, if the Regional Water Quality Control Board or the Enforcement Official determines that any otherwise exempt discharge causes or significantly contributes to violations of any Plan Standard, or conveys significant quantities of Pollutants to surface water(s) or Watercourse(s), or is a danger to public health or safety, such discharge shall be prohibited from entering the Stormwater Conveyance System.

13.14.060 Exceptions to Discharge Prohibition

Subject to the authority granted to the Regional Water Quality Control Board and the Enforcement Official in Section 13.14.420 of this chapter, the following discharges to the Stormwater Conveyance System are exempt from the prohibition set forth in Section 13.14.050 of this chapter.

A. Any discharge or connection regulated under a NPDES permit issued to the discharger and administered by the State of California pursuant to Division 7, Chapter 5.5 of the California Water Code, provided that the discharger is in compliance with all requirements of the permit and all other applicable laws and regulations;

B. Discharges from the following activities which do not cause or contribute to the violation of any Plan Standard:

1. Water line and well flushing and other discharges from potable water sources,
2. Landscape irrigation and lawn watering,
3. Rising ground waters or springs,
4. Passive foundation and footing drains,
5. Water from crawl space pumps and basement pumps,
6. Air conditioning condensate,
7. Noncommercial Vehicle Washing,
8. Natural flows from riparian habitats and wetlands,

9. Dechlorinated swimming pool discharges,
10. Flows from fire suppression activities, including fire hydrant flows and fire hydrant flow testing.
11. Waters not otherwise containing wastes as defined in California Water Code Section 13050(d) and California Health and Safety Code Section 25117,
12. Diverted stream flows,
13. Uncontaminated ground water infiltration to separate storm sewers;

C. Any discharge which the Enforcement Official, the local health officer, or the Regional Water Quality Control Board determines in writing is necessary for the protection of the public health and safety;

D. Any discharge caused by flooding or other natural disaster which could not have been reasonably foreseen or mitigated for in advance by the discharger, as determined by the Enforcement Official.

13.14.070 Groundwater Discharges

Discharges of pumped groundwater not subject to a NPDES permit may be permitted to discharge to the Stormwater Conveyance System upon written approval from the City and in compliance with conditions of approval set forth by the City.

13.14.080 Discharge in Violation of Permit

It is unlawful for any Person to cause either individually or jointly any discharge to the Stormwater Conveyance System which results in or contributes to a violation of Order No. 2003-0005 DWG.

13.14.090 Illicit Connections Prohibited

It is unlawful and a violation of this chapter for any Person to establish, use, or maintain any Illicit Connection.

13.14.100 Concealment and Abetting

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of this chapter.

13.14.110 Acts Potentially Resulting in Violation of Federal Clean Water Act and/or Porter-Cologne Act

Any Person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the Federal Clean Water Act (33 USC 1251 et seq.) and or Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and may be subject to the sanctions of those Acts including civil and criminal penalties.

13.14.120 Reduction of Pollutants in Stormwater

Any Person engaged in activities which may result in Pollutants entering the Stormwater Conveyance System shall, to the maximum extent practicable, undertake the measures set forth below to reduce the risk of Nonstormwater Discharge and/or Pollutant discharge.

A. Business Related Activities

1. Stormwater Pollution Prevention Plan. The Enforcement Official may require any business in the City that is engaged in activities which may result in Pollutant discharges to develop and implement a Stormwater Pollution Prevention Plan, which must include an Employee Training Program. Business activities which may require a Stormwater Pollution Prevention Plan include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures which are carried out partially or wholly out of doors.

2. Coordination with Hazardous Materials Release Response Plans and Inventory. Any business requiring a hazardous materials release response and inventory plan under Chapter 6.95 (commencing with Section 25500) of Division 20 of the California Health and Safety Code, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting Nonstormwater Discharges and Illegal Discharges, and requiring the release of Pollutants to be reduced to the maximum extent practicable.

3. Coordination with Hazardous Waste Generator Contingency Plan and Emergency Procedures. Any business requiring a hazardous waste generator contingency plan and emergency procedures pursuant to California Code of Regulations, Title 22, Sections 66265.51 to 66265.56, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting Nonstormwater Discharges and Illegal Discharges, and requiring the release of Pollutants to be reduced to the maximum extent practicable.

B. Development

1. The Enforcement Official may develop BMP including controls as appropriate to minimize the long-term, post construction discharge of Stormwater Pollutants from new development(s) or modifications to existing development(s). Controls may include source control measures to prevent pollution of Stormwater and/or treatment controls designed to remove Pollutants from Stormwater.

2. Any Person performing construction in the City shall prevent Pollutants from entering the Stormwater Conveyance System and comply with all applicable federal, state and local laws, ordinances or regulations including but not limited to the State general permit for Stormwater discharges associated with construction activity and the City grading, erosion and sediment control policies.

C. Compliance with General Permits. Each industrial discharger, discharger associated with construction activity, or other discharger subject to any general Stormwater permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, the Regional Water Quality Control Board Central Valley Region or the City of Lodi shall comply with the requirements of such permit, and

shall provide copies of permits and applicable reports to the Enforcement Official upon request.

D. Compliance with Best Management Practices. Every Person undertaking any activity or use of a Premises which may cause or contribute to Stormwater pollution or contamination, Illegal Discharges, or Nonstormwater Discharges shall comply with Best Management Practices guideline or pollution control requirements as may be reasonably established by the Enforcement Official.

13.14.130 Containment and Notification of Spills

Any Person owning or occupying a Premises who has knowledge of any release of Pollutants or Nonstormwater Discharge from or across those Premises which might enter the Stormwater Conveyance System, other than a release or discharge that is permitted by this chapter, shall immediately take all reasonable action to contain and abate the release of Pollutants or Nonstormwater Discharge, and shall notify the Enforcement Agency within twenty-four (24) hours of the release of Pollutants or Nonstormwater Discharge.

Article III Service Charges and Fees

13.14.140 Storm Drain and Cooling Water Service Charges

A. The fees and charges for disposal of storm waters, cooling water discharges or construction flush waters into the City's Stormwater Conveyance System will be those established and approved by the City Council from time to time by resolution.

B. The schedule of charges for the inspection, sampling and analysis of questionable storm water flowing into the City's Stormwater Conveyance System will be those established and adopted by the City council from time to time by resolution.

C. The City shall estimate and determine the amount of storm, cooling water or construction flush waters deposited into the City's Stormwater Conveyance System unless the User of the service elects to provide, install and maintain in good working order an integrating meter satisfactory to the City for the purposes of measuring such storm, cooling water or construction flush water.

D. In determining the amount of storm, cooling water or construction flush waters deposited into the City's Stormwater Conveyance System, no charge shall be made for the storm waters or minor irrigation waters or drainage from roofs, pavements or hard-surfaced areas within the City limits. Where such drainage is metered along with construction flush water, a credit of one thousand two hundred fifty (1,250) gallons per year for each one hundred (100) square feet, as projected and measured upon a horizontal plane, or such drainage area tributary to the meter shall be allowed. Where roofs or other areas are sprinkled or flushed, such flushing or sprinkling waters shall be included in the quantities for billing purposes.

13.14.150 Billing and Collections

All billing and collections for service charges shall be per Section 13.04.030 of this code.

Article IV. Construction Generally

13.14.160 Permit

No unauthorized Person shall uncover, make any connection with or opening into, use, alter or disturb any Stormwater Conveyance System or appurtenances, thereof without first obtaining a written permit from the Public Works Director.

13.14.170 Design Standards

All construction of public Stormwater Conveyance Systems or appurtenances shall conform to the design criteria, the standard plans and specifications and the inspection and testing procedures in accordance with current City public improvement design standards.

Article V. Extensions

13.14.210 Purpose

The City council has adopted a Stormwater conveyance extension policy that is fair and equitable to all developing properties and that provides that the cost of extension shall be distributed among subsequently developing properties connecting thereto.

13.14.220 Application

Whenever a property owner requires storm drainage, an application shall be made to the Public Works Department. The Public Works Director shall determine the closest Stormwater conveyance and, if an extension is necessary, indicate the size of the main to be extended and the limits of the extension.

13.14.230 Applicant's Obligation

Whenever the Public Works Director determines that a Stormwater conveyance extension is necessary, the applicant will be required to install, at the applicant's own expense, the Stormwater conveyance extension in accordance with the engineering plans furnished by applicant and approved by the Public Works Director. The plans shall be prepared in accordance with the City design standards.

13.14.240 Extension for Full Frontage Width

In every case where a storm drain is to be tapped to serve a parcel, the same shall be extended the full frontage of the parcel unless the Public Works Director determines that the storm drain will not need to be extended to serve any other properties.

13.14.250 Minimum Diameter

The minimum size storm drain shall have a nominal inside diameter of twelve (12) inches. Larger size mains may be required as determined by the Public Works Director in accordance with the City public improvement design standards to the City master storm drain plans.

13.14.260 Reimbursement – Oversize Mains

Whenever the City requires that a storm drain larger than eighteen (18) inches in diameter be installed in order to serve additional property or to conform to the applicable master plan, the applicant shall be reimbursed for the oversized pipe. The reimbursement shall be based on the difference in cost between the actual pipe to be installed and an eighteen-inch storm drain as applicable. The difference in cost shall be determined by the Public Works Director. The reimbursement shall be made in accordance with Chapter 16.40.

Article VI. Administration

13.14.310 Monitoring Facilities

A. The Public Works Director may require a commercial/industrial User to construct and maintain, at the User's expense, monitoring facilities which meet all government safety regulations (OSHA) to allow inspection, sampling and flow measurement of the building internal storm drainage systems and may also require sampling or metering equipment to be provided, installed, operated and maintained at the User's expense. The monitoring facility should normally be situated on the User's Premises, but the Public Works Director may, when such a location would be impractical or cause undue hardship on the User or the City, require the facility to be constructed in the public right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

B. When the monitoring facility is inside the User's fence, there shall be accommodations to allow access for the Enforcement Official, such as a gate secured with a City lock. There shall be ample room in or near such monitoring facility to allow accurate sampling and compositing of samples for analysis. The monitoring facility shall be maintained at all times in a safe and proper operating condition at the expense of the User.

C. Whether constructed on public or private property, plans and specifications shall be approved by the Public Works Director and be in accordance with all applicable City construction standards and specifications. Construction shall be completed within sixty (60) days following written notification by the City, unless a time extension is otherwise granted by the City.

13.14.320 Inspection, Sampling, Monitoring and Analysis

The Enforcement Official may inspect the facilities of any User to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of Premises where Stormwater is discharged shall allow the Public Works Director or designated representative ready access at all reasonable times to all parts of the Premises for the purposes of inspection or sampling or in performance

of any of their duties. The Enforcement Official shall have the right to set up on the User's property such devices as are necessary to conduct sampling or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into their Premises, the User shall make necessary arrangements with its security guards so that upon presentation of suitable identification, the Enforcement Official will be permitted to enter without delay for the purposes of performing their specific responsibilities. The User may be charged a fee to recover the costs for inspection (investigations), sampling, monitoring and analyses performed by the City to establish billing rates and to ensure compliance with all regulations.

13.14.340 Confidential Information

A. All information and data on a User obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless (1) the User specifically requests and is able to demonstrate to the satisfaction of the Public Works Director that the release of such information would divulge information, processes or methods that would be detrimental to the User's competitive position; and (2) disclosure is not required by the California Public Records Act.

B. When requested by the Person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies per 40 CFR 403.14; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the Person furnishing the report. Stormwater constituents and characteristics will not be recognized as confidential information.

13.14.350 Special Agreements

Special agreements and arrangements between the City and any Persons or agencies may be established when, in the opinion of the City council, unusual or extraordinary circumstances compel special terms and conditions. However, in no case may federal standards be waived or modified.

Article VII. Enforcement

13.14.410 Inspection Authority

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized Enforcement Official has reasonable cause to believe that there exists in any building or upon any Premises any condition which constitutes a violation of this chapter, the Enforcement Official may enter such building or Premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter. Any request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event that such entry is refused, inspection may be made upon issuance of a warrant issued by a court of competent jurisdiction. In the event the owner or occupant refuses entry after such request has been made, the Enforcement Official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. Inspections shall be based upon such

reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to, random sampling and/or sampling in areas with evidence of Stormwater contamination, Illegal Discharge, Nonstormwater Discharge to the Stormwater Conveyance System, or similar factors.

A. Sampling Authority. During any inspection, the Enforcement Official may take samples as necessary in order to implement and enforce the provisions of this chapter. This authority may include the installation of sampling and metering devices on private property, or requiring the Person owning or occupying the Premises to supply samples.

B. Monitoring, Analysis and Reporting Authority. The Enforcement Official may require monitoring, analysis and reporting of discharges from any Premises to the Stormwater Conveyance System. Upon service of written notice by the Enforcement Official, the burden, including cost, of these activities, analyses and reports, incurred in complying with the requirement shall, to the extent permitted by law, be borne by the property owner or occupant of the facility or activity for which testing and monitoring has been requested.

13.14.420 Enforcement Authority

The Enforcement Official may exercise any enforcement powers authorized or provided in this code, including without limitation, administrative penalties pursuant to this code, as may be necessary to effectively implement and enforce this chapter.

A. Administrative Enforcement Powers. The Enforcement Official may also exercise any of the following supplemental enforcement powers as may be necessary or advisable in the Enforcement Official's judgment under the circumstances:

1. Notice of Violation (NOV). Whenever the Enforcement Official finds that any Person owning or occupying a Premises has violated or is violating this chapter or an order issued hereunder, the Enforcement Official may serve, by personal service, or by registered or certified mail, upon said Person a written NOV. Within thirty (30) days of the receipt of this notice, or as may be prescribed in the NOV, the person so noticed shall submit to the Enforcement Official an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions. Submission of this plan shall in no way relieve the Person of liabilities for violations occurring before or after receipt of the NOV.

2. Cease and Desist Orders. The Enforcement Official may require any Person owning or occupying a premises to cease and desist all activities that may cause or contribute to discharge in violation of this chapter. This order may also require such Person to: (i) comply with the applicable provisions of this chapter within a designated period of time or; (ii) take appropriate remedial or preventative action to keep the violation from recurring.

3. Notice to Clean and Abate. The Enforcement Official may require any Person owning or occupying a premises to clean up and abate any release of Pollutants on those Premises which may result in a violation of this chapter. The Enforcement Official may also order abatement of activities or practices which may reasonably be expected to result in such a violation.

4. Mitigation. The Enforcement Official shall have authority to order the mitigation of circumstances which may result in or contribute to Illegal Discharges.

5. Stormwater Pollution Prevention Plan. The Enforcement Official shall have the authority to establish elements of a Stormwater Pollution Prevention Plan, and to require any business to adopt and implement such a plan, as may be reasonable and necessary to fulfill the purposes of this chapter.

6. Best Management Practices. The Enforcement Official may establish the requirements of Best Management Practices for any Premises.

7. Violations Constituting Misdemeanors. In addition to civil penalties provided for in this chapter, any violation of this chapter may be punishable as a misdemeanor as provided by Section 1.08.010 of this code.

8. Violations Deemed a Public Nuisance. In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety or welfare and is thus deemed a nuisance. Any such nuisance may be summarily abated and/or restored by any authorized Enforcement Official. The City attorney is authorized to pursue civil action(s) pursuant to subsection B of this section to abate, enjoin, or otherwise compel the cessation of the nuisance.

9. Cost Recovery. The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, the Enforcement Official shall have the authority to place a lien upon and against the property. If the lien is not satisfied within three months, the Enforcement Official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment or by delivery to the county assessor or a special assessment against the property in accordance with Government Code Section 38773.5

10. Seasonal and Recurrent Nuisance. If any violation of this chapter constitutes a seasonal and recurrent nuisance, the Enforcement Official shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

11. Costs of Enforcement. If the City prevails in any administrative, civil or criminal proceeding initiated under this chapter, the City shall be entitled to seek reimbursement for all costs incurred in connection with said proceeding. Such reimbursable expenses may include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, and costs of suit. If any such costs are granted to the City, said costs shall be recoverable pursuant to subsection (A)(9) of this section.

B. Civil Actions. In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City attorney. Monies recovered under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing Stormwater discharge pollution control systems and/or implementing or enforcing the provisions of this chapter. In any such action, the City may seek, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
3. Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;
4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life not to exceed \$6,000 per day, per occurrence in which such violations occur. The City attorney, upon order of the City council, shall petition the superior court to impose, assess and recover such sums. This penalty is in addition to any penalties which may be imposed by the State Regional Water Quality Control Board and the Environmental Protection Agency. Should the damage also cause the City to be cited for a violation of State or Federal requirements, the cost of said citation will be passed onto the offending party.

C. Authority to Arrest or Issue Citations. Any authorized Enforcement Official shall have and is vested with the authority to arrest or cite and release any Person who violates any section of this chapter in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanors or infractions as described by Chapters 5, 5(c) and 5(d) of Title 3, Part 2 of the California Penal Code (or as the same may hereafter be amended). Such authorized Enforcement Official may issue citations and notice to appear in the manner prescribed by Chapter 5(c) Title 3, Part 2 of the California Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City council that the immunities prescribed in Section 836.5 of the California Penal Code be applicable to public officers or employees acting in the course and scope of employment pursuant to this chapter.

D. Emergency Orders and Abatements. The Enforcement Official may order the abatement of any discharge from any source to the Stormwater Conveyance System when, in the opinion of the Enforcement Official, the discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety or welfare, or the environment or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of subsection (A)(9) of this section.

E. Contents of Notice. Any NOV, cease and desist order, or other civil notice or civil order issued by the Enforcement Official pursuant to this chapter shall include a copy of Section 13.14.450 of this chapter outlining appeal rights.

13.14.430 Remedies not Exclusive

Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

13.14.440 Compliance Timetable

When the City finds that discharge of unacceptable Stormwater has been taking place, or is threatening to take place, in violation of prohibitions or limitations prescribed in this chapter, the City may require the User to submit for approval, with such modifications as it deems necessary a detailed time schedule of specific actions, which the User shall take in order to prevent or correct a violation of requirements.

13.14.450 Appeal

A. Any Person served with a NOV, who is subject to a cease and desist order, who is subject to an abatement order, who is required to perform monitoring, analyses, reporting and/or corrective activities by an authorized Enforcement Official, or who is otherwise grieved by the decision of the authorized Enforcement Official, may appeal the decision to the Public Works Director within ten (10) days following the effective date of the decision by filing a written appeal with the Public Works Director. Upon receipt of such request, the Public Works Director shall request a report and recommendation from the authorized Enforcement Official and shall set the matter for hearing at the earliest practical date. Due notice of the hearing shall be provided to the Person appealing the decision of the authorized Enforcement Official. At the hearing, the Public Works Director may hear additional evidence, and may reject, affirm or modify the authorized Enforcement Official's decision.

B. If the ruling made by the Public Works Director is unsatisfactory to the person requesting reconsideration, the person, may, within twenty days after notification of the City's action, file a written appeal to the City Council. The written appeal shall be heard by the council within twenty days from the date of filing. The City council shall make a final ruling on the appeal within twenty days of the hearing. The determination shall remain in effect during such period of reconsideration.

13.14.460 Disclaimer of Liability

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of Pollutants into the waters of the United States. This chapter shall not create liability on the part of the City, any officer or employee thereof for any damages that result from reliance on the code or any administrative decision lawfully made thereunder.

13.14.470 City Authority

The Enforcement Official is authorized to make any decision on behalf of the City required or called for by this chapter.

13.14.480 Judicial Review

The provisions of California Code of Civil Procedure Section 1094.6 are applicable to judicial review of City decisions pursuant to this chapter.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City of outside of the City so as to provide a basis of civil liability for damages, except otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the Lodi News-Sentinel," A daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2004

LARRY D. HANSEN
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

=====

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held May 5, 2004, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
Interim City Attorney

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Public Hearing to Consider Resolution Adopting Engineer's Report, Confirming the Assessments, Overruling Protests and Declaring Assessment Ballot Results and Annexing Territory to a Maintenance Assessment District and Forming Zone 3 and Zone 4 (Millsbridge II Zone 3 and Almond North Zone 4 Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1)

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council conduct a Public Hearing to consider a resolution for the following:

1. Adopting Engineer's Report
2. Confirming the assessments
3. Overruling protests and declaring assessment ballot results
4. Annexing territory to a maintenance assessment district and forming Zone 3 and Zone 4 (Millsbridge II Zone 3 and Almond North Zone 4 Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1)

BACKGROUND INFORMATION: On March 17, 2004, the City Council adopted the following resolutions regarding the formation of the Zone 3, Millsbridge II and Zone 4, Almond North Assessment Districts, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1.

1. Resolution of Preliminary Determination to Annex Territory to the Maintenance Assessment District, to Form a Zone, to Levy an Annual Assessment for Cost Incurred and Preliminary Approval of Engineer's Report.
2. Resolution of Intention to Annex Territory to a Maintenance Assessment District, to Form a Zone, to Levy and Collect an Annual Assessment for Maintenance and Operation of Improvements and for Costs and Expenses and Setting Time and Place of Public Meeting and Public Hearing and Setting Forth Mailed Property Owner Ballot Procedure and Notice.

Developers of the Millsbridge II subdivision and the Almond North subdivision have elected to form assessment districts pursuant to the Landscaping and Lighting Act of 1972 for the purpose of installing and/or maintaining public improvements consisting of street parkway trees and public park area. Included in the developments' requirements is the replacement of the improvements at the end of its useful life.

Zone 3, Millsbridge II The estimated annual assessment for the first year is \$224 per unit, and the maximum annual assessment is \$ 323. The maximum annual assessment is subject to a yearly cost adjustment of the greater of either 5% or the percentage increase of the Local Consumer Price Index. Subsequent annual assessments will be based upon contract bid prices and the Engineer's Report schedule of replacement costs.

APPROVED: _____
H. Dixon Flynn, City Manager

Public Hearing to Consider Resolution Adopting Engineer's Report, Confirming the Assessments, Overruling Protests and Declaring Assessment Ballot Results and Annexing Territory to a Maintenance Assessment District and Forming Zone 3 and Zone 4 (Millsbridge Zone 3 and Almond North Zone 4 Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1)

May 5, 2004

Page 2

Zone 4, Almond North The estimated annual assessment for the first year is \$304 per unit, and the maximum annual assessment is \$401. The maximum annual assessment is subject to a yearly cost adjustment of the greater of either 5% or the percentage increase of the Local Consumer Price Index. Subsequent annual assessments will be based upon contract bid prices and the Engineer's Report schedule of replacement costs.

In order for the assessment to be successful under Proposition 218 requirements, a majority of the landowners who vote (calculated in terms of dollars of assessment) must vote in favor of the proposals. If a majority vote is not received, the district will not be formed. At this time, there is a single owner of each subdivision.

FUNDING: The developers are funding construction of the street parkway trees that will be maintained by the Zone 3 and Zone 4 assessments and are reimbursing the City costs for the engineering and legal services required to form the zones and implement the annexation.

Richard C. Prima, Jr.
Public Works Director

Prepared by F. Wally Sandelin, City Engineer

RCP/FWS/pmf

Attachments

cc: D. Stephen Schwabauer, Interim City Attorney
Tony Goehring, Parks and Recreation Director
George Bradley, Street Superintendent

**ENGINEER'S REPORT
MILLSBRIDGE II ZONE 3
AND
ALMOND NORTH ZONE 4
LODI CONSOLIDATED LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT NO. 2003-1
(PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972)
CITY OF LODI**

FISCAL YEAR 2004-2005

PREPARED BY:

**Thompson-Hysell Engineers,
a division of The Keith Companies, Inc.
1016 12th Street
Modesto, CA 95354**

MARCH 2004

**ANNUAL ENGINEER'S REPORT
FOR THE 2004-2005 FISCAL YEAR**

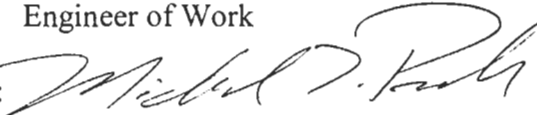
MILLSBRIDGE II ZONE 3 AND
ALMOND NORTH ZONE 4
LODI CONSOLIDATED LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT NO. 2003-1
CITY OF LODI
(Pursuant to the Landscaping and Lighting Act of 1972)

The undersigned respectfully submits the enclosed annual report as directed by the City Council.

DATED: _____, 2004.

Thompson-Hysell Engineers
Engineer of Work

BY:


Michael T. Persak
RCE 44908



I HEREBY CERTIFY that the enclosed Annual Engineer's Report, together with Boundary Map, Assessment, and Assessment Diagram thereto attached, was filed with me on the _____ day of _____, 2004.

_____, City Clerk, City of Lodi
San Joaquin County, California

BY:

I HEREBY CERTIFY that the enclosed Annual Engineer's Report together with Assessment and Assessment Diagram thereto attached, was approved and confirmed by the City Council of the City of Lodi, California on the _____ day of _____, 2004.

_____, City Clerk, City of Lodi
San Joaquin County, California

BY:

I HEREBY CERTIFY that the enclosed Annual Engineer's Report together with Assessment and Assessment Diagram thereto attached, was filed with the Auditor of the County of San Joaquin on the _____ day of _____, 2004.

_____, City Clerk, City of Lodi
San Joaquin County, California

BY:

March 9, 2004

The Honorable Mayor and
City Council of The City of
Lodi, CA

To Whom It May Concern:

This report is prepared pursuant to and in compliance with the requirements of the "Landscaping and Lighting Act of 1972," as amended, commencing with the Streets and Highways code sections 22500, et seq. for the creation of two new zones (Millsbridge II Zone 3 and Almond North Zone 4) in the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1.

BACKGROUND

The Millsbridge II zone consists of a 27-lot residential development and 5 adjacent parcels which, when subdivided, will equal 11 dwelling unit equivalent Factors (dueF's) located in the southwestern portion of the City of Lodi. The development is being pursued by Ron Thomas Development, Tokay Development, and Almond North LLC. The Almond North zone consists of a 28-lot residential development in the southeastern portion of the City of Lodi. The development is being pursued by Almond North LLC, a California Limited Liability Company. This report is relative to the proposed Millsbridge II Zone 3 and Almond North Zone 4 Landscape Maintenance Districts of the City of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 which provides annual funds for the maintenance of various public landscape improvements.

PHASED DEVELOPMENT

The Millsbridge II Zone 3 and Almond North Zone 4 developments are currently anticipated to be constructed in a single phase. Annually, the additional public amenity improvements and the additional developed areas, if any, shall be identified. The costs of the maintenance of the new improvements, if any, shall be added to and included in the next annual landscape maintenance budget. These amounts for the additional improvements were accounted for in determining the maximum annual assessment (see Exhibit A). The Millsbridge II Zone 3 and Almond North Zone 4 projects, when completed, will include 38 and 28 dueF's, respectively.

ASSESSMENT DISTRICT AREA

The areas of Millsbridge II Zone 3 and Almond North Zone 4 are described as all of the property within the following assessor's parcels identified by assessor's number (APN):

<u>Zone</u>	<u>Book</u>	<u>Page</u>	<u>Parcel</u>
3	031	040	10-12, 14, 35, 38
4	062	060	14, 15

Boundary maps are attached to this Engineer's Report as Exhibit B. The assessment diagrams for the Millsbridge II Zone 3 and Almond North Zone 4 Landscape Maintenance Districts are attached to the Engineer's Report as Exhibit C. Sheet 1 of the assessment diagrams is a simple overall boundary map. Sheet 2 is the County Assessor's map and is incorporated in, and made a part of, the assessment diagram.

PLANS AND SPECIFICATIONS

As this project is developed, plans and specifications for the amenity improvements to be maintained by the funds generated by the Millsbridge II Zone 3 and Almond North Zone 4 Landscape Maintenance Districts shall be filed with the City of Lodi and will be incorporated into this report by reference.

DESCRIPTION OF AREAS TO BE MAINTAINED

The Millsbridge II Zone 3 and Almond North Zone 4 Landscape Maintenance Districts are created to provide funding for the continued maintenance of the public areas which are described below. During the installation period for each phase, the installer of the improvements will maintain the new improvements until the following June 30, or until such time as funds are available for maintenance, at which time the new areas shall be incorporated into the areas already being maintained by the District.

The following improvements shall be included in the Districts upon their completion.

1. Zone 3 – Description of Improvements for Future Development

- A. Street parkway trees located within the public street within the District Zone 3 boundary.
- B. Public park land area of 0.3553 acres in size equivalent to the current level of service standard for park area within the City of 3.4 acres per 1000 persons served.

2. Zone 4 – Description of Improvements for Future Development

- A. Street parkway trees located within the public street within the District Zone 4 boundary.
- B. Public park land area of 0.2618 acres in size equivalent to the current level of service standard for park area within the City of 3.4 acres per 1000 persons served.

ALLOCATION OF COSTS

Assessments for the Millsbridge II Zone 3 and Almond North Zone 4 Landscape Maintenance Districts are apportioned in a manner intended to fairly distribute the amounts among all assessable developed parcels in proportion to the estimated benefits to be received by each such parcel. A parcel is considered as being developed by reason of having been included as a lot or parcel in the Millsbridge II Zone 3 and Almond North Zone 4 recorded Final Maps or being included within the active developed area in the case of an existing parcel. The criteria for apportioning the costs for the maintenance makes use of a dwelling unit equivalent Factor (dueF) to calculate the benefit for all uses in terms of equivalent dwelling units. The terms, definitions, and procedures followed to develop the annual assessments are as follows:

1. Dwelling Unit Equivalent Factor (dueF)

The dueF for each use is as follows:

A. Single-Family Residential

All parcels determined to be developed for single-family use shall have a dueF of 1.0 for each parcel. One parcel has been designated for duplex use. This parcel will be assigned a dueF of 2.0.

B. Multiple-Family Residential

All parcels determined to be developed for multiple-family residential, other than duplex or triplex uses, shall have a dueF of 5.0 per acre for each parcel, in general representative of the approximate single-family yield if the area were developed for that use.

C. Commercial/Office

All parcels determined to be developed for commercial or office use shall have the dueF factor calculated as follows:

5 dueF per acre for the first 7.5 acres

2.5 dueF per acre for the next 7.5 acres

1.25 dueF per acre for all acreage over 15 acres.

D. Other Uses

All parcels determined to have uses other than identified above shall have a dueF established at the time of the first annual budget affecting such areas as determined by the Engineer or other officer appointed by the City of Lodi to prepare the annual cost spread. The determined dueF shall follow the character of the factors assigned above as nearly as practicable, but the determination shall be the sole responsibility of the appointed party and the City of Lodi.

E. Zero Dwelling Unit Equivalent Factor (dueF)

Certain parcels, by reason of use, size, shape, or state of development, may be assigned a zero dueF which will consequently result in a zero assessment for that fiscal year. All parcels having such a zero dueF for the previous fiscal year shall

annually be reconsidered to determine if the reason for assigning the zero dueF is still valid for the next fiscal year. Parcels which may be expected to have a zero dueF assigned are typically parcels which are all, or nearly all, publicly landscaped, parcels in public ownership, parcels owned by a public utility company and/or used for public utilities, public parks, public schools, and remainder parcels too small or narrow for reasonable residential or commercial use, unless actually in use.

1. Area Adjustments

Parcels which have an assessment determined by area and which have a portion of the parcel occupied by public or public utility uses separate from the entitled use and located in easements, prior to the multiplication by the dueF, shall have the area of the parcel adjusted to a usable area to reflect the loss or partial loss of the entitled use in those areas. This reduction shall not apply for normal peripheral and interior lot line public utility easements generally existing over the whole subdivision.

2. Compilation

Annually, about May 15, following the determination of the dwelling unit equivalent Factor (dueF) for all developed parcels and the determination of the list of developed parcels by APN for the next fiscal year, all single-family or duplex/triplex residential parcels shall have a dwelling unit equivalent (due) assigned to each parcel equal to the dueF for that parcel. For all parcels other than single-family or duplex/triplex residential parcels, the product of the dueF times the area or adjusted usable area of the parcel, as appropriate, shall be calculated and shall be the due assigned. For developed parcels, the sum of the due assigned to each single-family due for each other parcel shall equal the total due for the next fiscal year. The total amount of revenue required for the next fiscal year shall then be divided by the total due to calculate the assessment per due for the next fiscal year. Parcels defined as not developed for the purposes of determining the landscape maintenance assessments will all have a zero dueF and consequently a zero due and a zero assessment.

3. Allocation of Assessments

The assessment for wall maintenance for the next fiscal year shall then be set for each parcel as the product of the calculated dwelling unit equivalent (due) for each parcel, multiplied by the assessment per due for the next fiscal year.

METHOD OF ASSESSMENT SPREAD

In compliance with the provisions of Proposition 218, adding Article XIII D to the California Constitution, the benefits conferred on each parcel within the Lodi Consolidated Landscape Maintenance District No. 2003-1 are particular and distinct benefits (hereinafter "special benefits") over and above general benefits conferred on such property or to the public at large, in that the individual letter-designated zones in the District each represents a common unit to provide landscape, park, and related amenity maintenance, and monitored irrigation for the development of the property within the individual letter-designated zones in the District generally for residential and related urban uses. Benefits are determined to be 100% special benefits and 0% general benefits. Also, in keeping with the requirements of Proposition 218, no annual individual assessments shall be

increased above the amounts assessed under the established criteria for each zone for the preceding fiscal year without an election approval.

The base objective of the assessment spread is to distribute costs in accordance with the benefits received. Costs will be spread equally to each residential lot as follows:

1. Zone 3: Lots 1-27 in Millsbridge II, APN 031-040-10 (3 future lots), APN 031-040-11 (3 future lots), APN 031-040-12 (2 future lots), APN 031-040-14 (1 future lot), and APN 031-040-38 (existing duplex) shall be assessed equally for the estimated costs of maintenance for the fiscal year 2004-2005.
2. Zone 4: Lots 1-28 in Almond North shall be assessed equally for the estimated costs of maintenance for the fiscal year 2004-2005.

ANNUAL ESCALATION

The maximum assessment amount for each fiscal year shall be increased in an amount equal to the greater of: 1) five percent (5.0%), or 2) the percentage increase of the Local Consumer Price Index (CPI). Consumer Price Index applied is for the San Francisco-Oakland-San Jose County Area for All Urban Consumers, as developed by the U.S. Bureau of Labor Statistics for a similar period of time.

ADMINISTRATION

It is intended that the City of Lodi, either directly or by subcontract, shall have the responsibility to establish an ongoing Landscape Maintenance Management entity to be known as the Landscape Maintenance District Manager which shall be responsible to establish the annual budget, keep an accounting of the maintenance and operational administrative costs, administer and perform the landscape maintenance either directly or by subcontract, pay all fees, utility costs, taxes, and any and all other operating costs.

ESTIMATE OF COSTS

The location and size of a park serving these subdivisions has not yet been determined. The estimated costs are for public amenity maintenance only. All improvements will be installed at no cost to the Landscape Maintenance Assessment District. The assessment will not be levied until needed, upon development and City acceptance of the improvements.

Items considered in the maintenance cost include, but are not limited to: Water for plants and trees, weeding, pruning, mowing, replacement of plants and trees that may die, maintenance of pavement and sidewalks, and maintaining and replacing all sprinkler lines and heads.

The annual costs estimated to be collected with the 2004-2005 taxes for the developed areas are as follows:

<u>ZONE 3</u>	<u>FY 2004-05</u>	<u>FY 2004-05</u>
<u>OPERATION OF COSTS</u>	<u>ESTIMATED</u>	<u>MAXIMUM</u>
	<u>ASSESSMENT</u>	<u>ASSESSMENT</u>
Street Trees	\$1,100.00	\$1,100.00
Future Park Site	\$0.00	\$3,600.00
Est. Subtotal Operation Costs	\$1,100.00	\$4,700.00
 <u>DISTRICT ADMINISTRATION COSTS</u>		
Annual Engineer's Report	\$4,000.00	\$4,000.00
Publication	\$100.00	\$100.00
City Administration Fee	\$2,000.00	\$2,000.00
County Administration Fee	<u>\$900.00</u>	<u>\$900.00</u>
Est. Total Administration Costs	\$7,000.00	\$7,000.00
Est. Contingency	\$412.00	\$574.00
Total Estimated Revenue Required for 2004-2005 Fiscal Year	\$8,512.00	\$12,274.00
Total Appropriation Required from Existing Fund Balance	\$0.00	\$0.00
Total Estimated Assessment for 2004-2005 Fiscal Year	\$8,512.00	\$12,274.00
Total dueF	38	38
Assessment per dueF	\$224.00	\$323.00
MAXIMUM ANNUAL ASSESSMENT		\$323.00

<u>ZONE 4</u>	<u>FY 2004-05</u>	<u>FY 2004-05</u>
<u>OPERATION OF COSTS</u>	<u>ESTIMATED</u>	<u>MAXIMUM</u>
	<u>ASSESSMENT</u>	<u>ASSESSMENT</u>
Street Trees	\$1,100.00	\$1,100.00
Future Park Site	\$0.00	\$2,600.00
Est. Subtotal Operation Costs	\$1,100.00	\$3,700.00
<u>DISTRICT ADMINISTRATION COSTS</u>		
Annual Engineer's Report	\$4,000.00	\$4,000.00
Publication	\$100.00	\$100.00
City Administration Fee	\$2,000.00	\$2,000.00
County Administration Fee	<u>\$900.00</u>	<u>\$900.00</u>
Est. Total Administration Costs	\$7,000.00	\$7,000.00
Est. Contingency	\$412.00	\$528.00
Total Estimated Revenue Required for 2004-2005 Fiscal Year	\$8,512.00	\$11,228.00
Total Appropriation Required from Existing Fund Balance	\$0.00	\$0.00
Total Estimated Assessment for 2004-2005 Fiscal Year	\$8,512.00	\$11,228.00
Total dueF	28	28
Assessment per dueF	\$304.00	\$401.00
MAXIMUM ANNUAL ASSESSMENT		\$401.00

ASSESSMENT ROLL

The assessment roll for the fiscal year 2004-2005 is as follows:

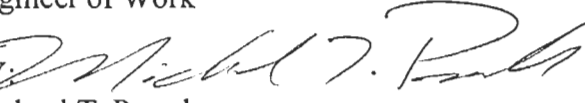
Assessment No.	APN No.	Future Lot Nos.	Owner	No. of dueF's	FY 2004-05 Estimated Assessment	FY 2004-05 Maximum Assessment
<i>Millsbridge II, Zone 3</i>						
1	031-040-35	1-11, 25-27	R. Thomas Development Inc. and Tokay Development Inc.	14	\$3,136.00	\$4,522.00
2	031-040-36	12-24	R. Thomas Development Inc. and Tokay Development Inc.	13	\$2,912.00	\$4,199.00
3	031-040-10	28-30	Mazen M. Mardini	3	\$672.00	\$969.00
4	031-040-11	31-33	Jeffrey/Carol Kirst Trust and Ronald B. Thomas Trust	3	\$672.00	\$969.00
5	031-040-12	34-35	Jeffrey/Carol Kirst Trust and Ronald B. Thomas Trust	2	\$448.00	\$646.00
6	031-040-14	36	Jeffrey/Carol Kirst Trust and Ronald B. Thomas Trust	1	\$224.00	\$323.00
7	031-040-38	37	Darrell & Rhonda Sasaki	2	\$448.00	\$646.00
Total Zone 3				38	\$8,512.00	\$12,274.00
<i>Almond North, Zone 4</i>						
1	062-060-14	1-27	Almond North, LLC	27	\$8,208.00	\$10,827.00
2	062-060-15	28	Almond North, LLC	1	\$304.00	\$401.00
Total Zone 4				28	\$8,512.00	\$11,228.00

The parcels in this subdivision are expected to subdivide upon and subsequent to the formation of Zones 3 and 4. The proposed subdivision will yield approximately 66 parcels (residential lots) and will have a proposed assessment roll, based on the above criteria and budget, set forth in Exhibit A.

Engineer's Report
Millsbridge II Zone 3 and
Almond North Zone 4
Page 9 of 9
March 9, 2004

The foregoing Engineer's Report and the estimate of costs, as well as the Assessment Diagram and Assessment Roll, which are attached hereto, are presented for your approval by resolution dated this _____ day of _____, 2004.

THOMPSON-HYSELL ENGINEERS
Engineer of Work

BY: 
Michael T. Persak
RCE 44908



**EXHIBIT A
ASSESSMENT ROLL
MILLSBRIDGE II ZONE 3 AND
ALMOND NORTH ZONE 4
LODI CONSOLIDATED LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT NO. 2003-1
(PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972)
CITY OF LODI, CA**

DIAGRAM NUMBER	COUNTY ASSESSOR NUMBER	UNIT NO.	LOT NO.	FY 2004-05 ESTIMATED ASSESSMENT	FY 2004-05 MAXIMUM ASSESSMENT
1	031-040-35	Millsbridge II	Lot No. 1	\$224.00	\$323.00
2	031-040-35	Millsbridge II	Lot No. 2	\$224.00	\$323.00
3	031-040-35	Millsbridge II	Lot No. 3	\$224.00	\$323.00
4	031-040-35	Millsbridge II	Lot No. 4	\$224.00	\$323.00
5	031-040-35	Millsbridge II	Lot No. 5	\$224.00	\$323.00
6	031-040-35	Millsbridge II	Lot No. 6	\$224.00	\$323.00
7	031-040-35	Millsbridge II	Lot No. 7	\$224.00	\$323.00
8	031-040-35	Millsbridge II	Lot No. 8	\$224.00	\$323.00
9	031-040-35	Millsbridge II	Lot No. 9	\$224.00	\$323.00
10	031-040-35	Millsbridge II	Lot No. 10	\$224.00	\$323.00
11	031-040-35	Millsbridge II	Lot No. 11	\$224.00	\$323.00
12	031-040-36	Millsbridge II	Lot No. 12	\$224.00	\$323.00
13	031-040-36	Millsbridge II	Lot No. 13	\$224.00	\$323.00
14	031-040-36	Millsbridge II	Lot No. 14	\$224.00	\$323.00
15	031-040-36	Millsbridge II	Lot No. 15	\$224.00	\$323.00
16	031-040-36	Millsbridge II	Lot No. 16	\$224.00	\$323.00
17	031-040-36	Millsbridge II	Lot No. 17	\$224.00	\$323.00
18	031-040-36	Millsbridge II	Lot No. 18	\$224.00	\$323.00
19	031-040-36	Millsbridge II	Lot No. 19	\$224.00	\$323.00
20	031-040-36	Millsbridge II	Lot No. 20	\$224.00	\$323.00
21	031-040-36	Millsbridge II	Lot No. 21	\$224.00	\$323.00
22	031-040-36	Millsbridge II	Lot No. 22	\$224.00	\$323.00
23	031-040-36	Millsbridge II	Lot No. 23	\$224.00	\$323.00
24	031-040-36	Millsbridge II	Lot No. 24	\$224.00	\$323.00
25	031-040-35	Millsbridge II	Lot No. 25	\$224.00	\$323.00
26	031-040-35	Millsbridge II	Lot No. 26	\$224.00	\$323.00
27	031-040-35	Millsbridge II	Lot No. 27	\$224.00	\$323.00
28	031-040-10	Millsbridge II	Lot No. 28	\$224.00	\$323.00
29	031-040-10	Millsbridge II	Lot No. 29	\$224.00	\$323.00
30	031-040-10	Millsbridge II	Lot No. 30	\$224.00	\$323.00
31	031-040-11	Millsbridge II	Lot No. 31	\$224.00	\$323.00
32	031-040-11	Millsbridge II	Lot No. 32	\$224.00	\$323.00
33	031-040-11	Millsbridge II	Lot No. 33	\$224.00	\$323.00
34	031-040-12	Millsbridge II	Lot No. 34	\$224.00	\$323.00
35	031-040-12	Millsbridge II	Lot No. 35	\$224.00	\$323.00
36	031-040-14	Millsbridge II	Lot No. 36	\$224.00	\$323.00
37	031-040-38	Millsbridge II	Lot No. 37 (duplex)	\$448.00	\$646.00
ZONE 3 TOTAL				\$8,512.00	\$12,274.00

**EXHIBIT A
ASSESSMENT ROLL
MILLSBRIDGE II ZONE 3 AND
ALMOND NORTH ZONE 4
LODI CONSOLIDATED LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT NO. 2003-1
(PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972)
CITY OF LODI, CA**

DIAGRAM NUMBER	COUNTY ASSESSOR NUMBER	UNIT NO.	LOT NO.	FY 2004-05 ESTIMATED ASSESSMENT	FY 2004-05 MAXIMUM ASSESSMENT
38	062-060-14	Almond North	Lot No. 1	\$304.00	\$401.00
39	062-060-14	Almond North	Lot No. 2	\$304.00	\$401.00
40	062-060-14	Almond North	Lot No. 3	\$304.00	\$401.00
41	062-060-14	Almond North	Lot No. 4	\$304.00	\$401.00
42	062-060-14	Almond North	Lot No. 5	\$304.00	\$401.00
43	062-060-14	Almond North	Lot No. 6	\$304.00	\$401.00
44	062-060-14	Almond North	Lot No. 7	\$304.00	\$401.00
45	062-060-14	Almond North	Lot No. 8	\$304.00	\$401.00
46	062-060-14	Almond North	Lot No. 9	\$304.00	\$401.00
47	062-060-14	Almond North	Lot No. 10	\$304.00	\$401.00
48	062-060-14	Almond North	Lot No. 11	\$304.00	\$401.00
49	062-060-14	Almond North	Lot No. 12	\$304.00	\$401.00
50	062-060-14	Almond North	Lot No. 13	\$304.00	\$401.00
51	062-060-14	Almond North	Lot No. 14	\$304.00	\$401.00
52	062-060-14	Almond North	Lot No. 15	\$304.00	\$401.00
53	062-060-14	Almond North	Lot No. 16	\$304.00	\$401.00
54	062-060-14	Almond North	Lot No. 17	\$304.00	\$401.00
55	062-060-14	Almond North	Lot No. 18	\$304.00	\$401.00
56	062-060-14	Almond North	Lot No. 19	\$304.00	\$401.00
57	062-060-14	Almond North	Lot No. 20	\$304.00	\$401.00
58	062-060-14	Almond North	Lot No. 21	\$304.00	\$401.00
59	062-060-14	Almond North	Lot No. 22	\$304.00	\$401.00
60	062-060-14	Almond North	Lot No. 23	\$304.00	\$401.00
61	062-060-14	Almond North	Lot No. 24	\$304.00	\$401.00
62	062-060-14	Almond North	Lot No. 25	\$304.00	\$401.00
63	062-060-14	Almond North	Lot No. 26	\$304.00	\$401.00
64	062-060-14	Almond North	Lot No. 27	\$304.00	\$401.00
65	062-060-15	Almond North	Lot No. 28	\$304.00	\$401.00
ZONE 4 TOTAL				\$8,512.00	\$11,228.00

PROPOSED AMENDED BOUNDARIES
(MILLSBRIDGE II, ZONE 3 ANNEXATION)
CITY OF LODI CONSOLIDATED LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT
NO. 2003-1 CITY OF LODI,
SAN JOAQUIN COUNTY
STATE OF CALIFORNIA
BEING A PORTION OF THE SOUTHWEST
QUARTER OF SECTION 11, T.3N., R.6E., M.D.B.M.,
CITY OF LODI,
SAN JOAQUIN COUNTY, CALIFORNIA

THOMPSON-HYSELL ENGINEERS
1016 12th STREET
MODESTO, CALIFORNIA
MARCH, 2004

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF LODI, THIS _____ DAY
OF _____, 2004.

CITY CLERK OF THE CITY OF LODI

RECORDED THIS _____ DAY OF _____, 2004, AT THE HOUR
OF _____ IN THE OFFICE OF THE COUNTY CLERK OF THE COUNTY OF
SAN JOAQUIN, CALIFORNIA, WHEREIN IS CONTAINED A TRUE AND
CORRECT COPY OF THE MAP OF ASSESSMENTS AND COMMUNITY FACILITIES DISTRICTS IN THE CITY OF
LODI, CALIFORNIA, AS APPROVED BY THE CITY COUNCIL OF THE
CITY OF LODI AT A REGULAR MEETING THEREOF, HELD ON THE
DAY OF _____, 2004, BY ITS RESOLUTION NO. _____.

COUNTY RECORDER
OF SAN JOAQUIN COUNTY, CALIFORNIA

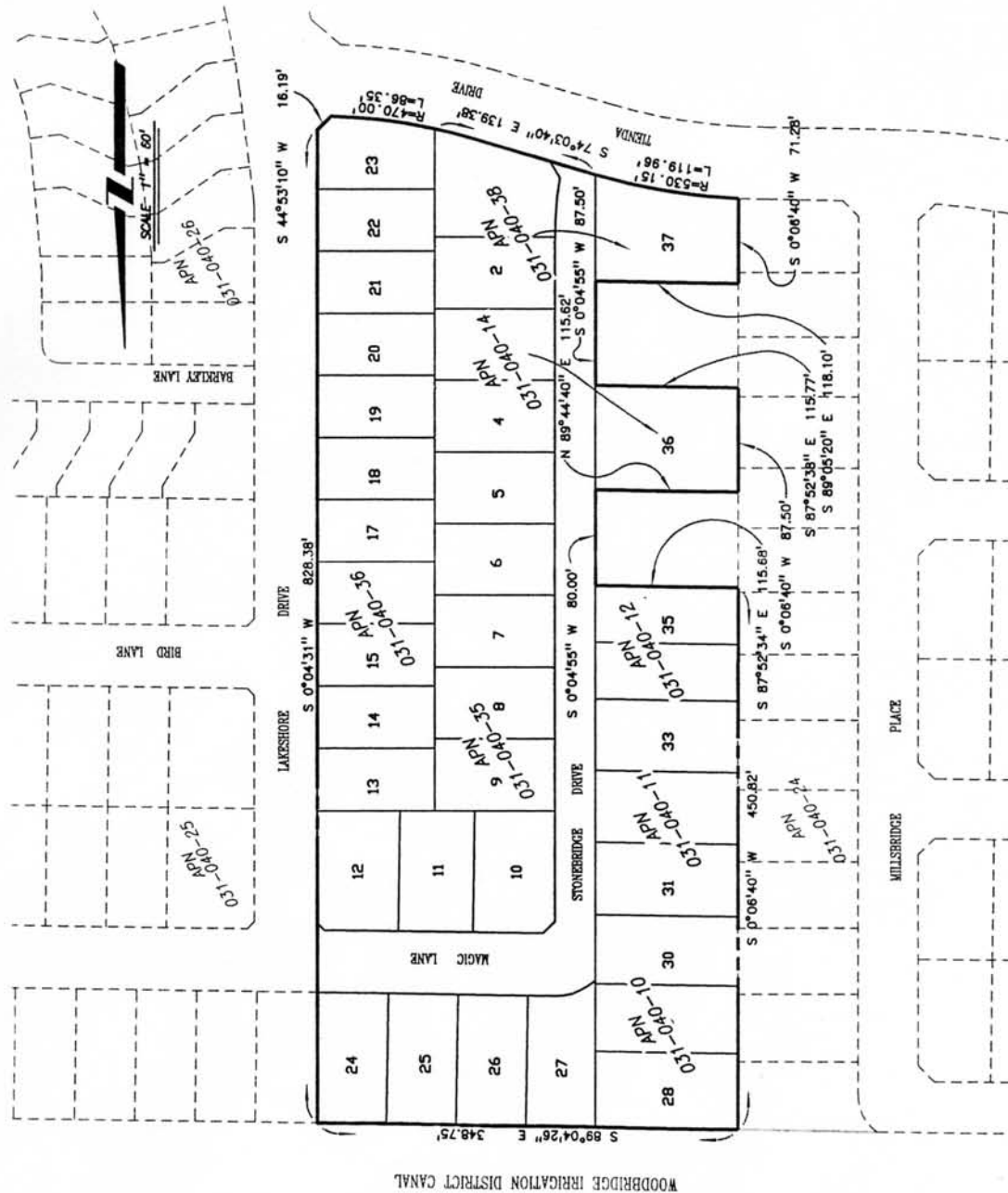
I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED
BOUNDARIES FOR THE CITY OF LODI, SAN JOAQUIN COUNTY, STATE OF CALIFORNIA
MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1, CITY OF LODI, SAN JOAQUIN
COUNTY, CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE
CITY OF LODI AT A REGULAR MEETING THEREOF, HELD ON THE
DAY OF _____, 2004, BY ITS RESOLUTION NO. _____.

CITY CLERK OF THE CITY OF LODI

THE WITHIN BOUNDARY MAP SHOWS THE BOUNDARY MAP FOR THE CITY OF LODI,
SAN JOAQUIN COUNTY, STATE OF CALIFORNIA MAINTENANCE ASSESSMENT DISTRICT
NO. 2003-1, CITY OF LODI, SAN JOAQUIN COUNTY, STATE OF CALIFORNIA
MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1, CITY OF LODI, SAN JOAQUIN
COUNTY, CALIFORNIA, AS APPROVED BY THE CITY COUNCIL OF THE
CITY OF LODI AT A REGULAR MEETING THEREOF, HELD ON THE
DAY OF _____, 2004, BY ITS RESOLUTION NO. _____.

LEGEND:
OVERALL DISTRICT BOUNDARY LINE

EXHIBIT B

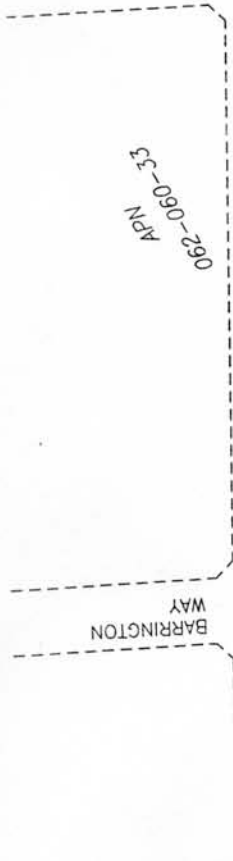


**PROPOSED AMENDED BOUNDARIES
(ALMOND NORTH, ZONE 4 ANNEXATION)
CITY OF LODI CONSOLIDATED LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT
NO. 2003-1 CITY OF LODI,
SAN JOAQUIN COUNTY
STATE OF CALIFORNIA**

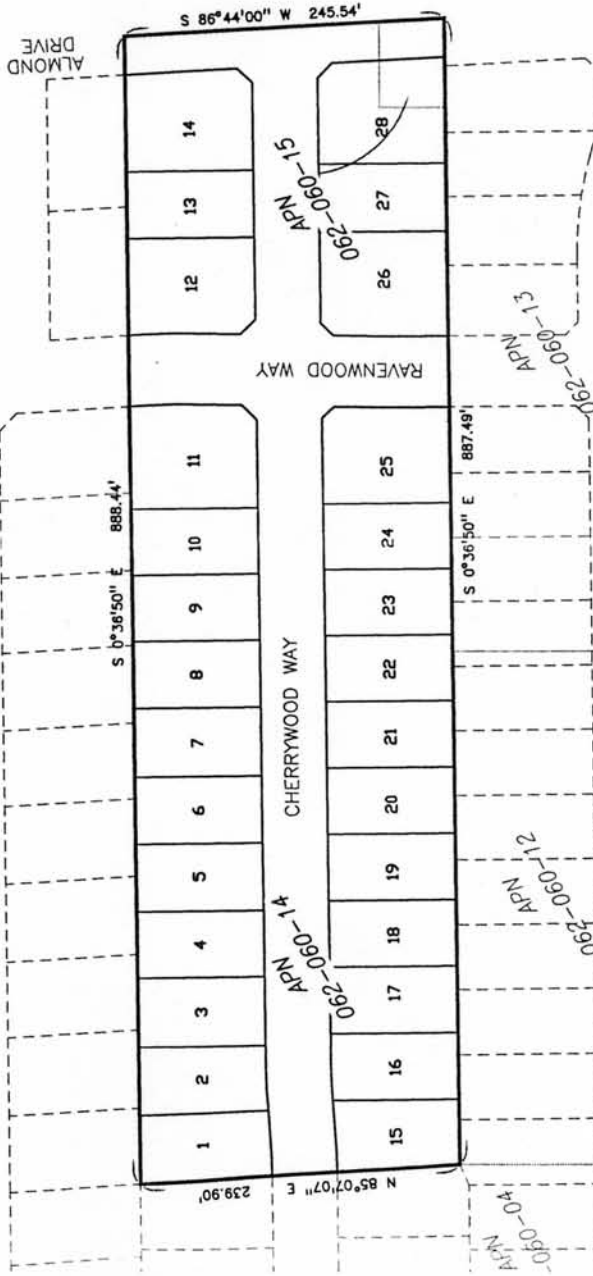
BEING A PORTION OF THE SOUTHWEST
QUARTER OF SECTION 14, T.34N, R.6E, M.D.B.&M.,
CITY OF LODI,
SAN JOAQUIN COUNTY, CALIFORNIA

THOMPSON-HYSELL ENGINEERS
1016 12th STREET MODESTO, CALIFORNIA
MARCH, 2004

SCALE 1" = 60'



FAWNHAVEN WAY



CITY CLERK OF THE CITY OF LODI

THE AMENDED BOUNDARY MAP AMENDS THE BOUNDARY MAP FOR CITY OF LODI
CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1,
CITY OF LODI, SAN JOAQUIN COUNTY, STATE OF CALIFORNIA, PREPARED BY
THOMPSON-HYSELL ENGINEERS, AT PAGE 100, IN THE OFFICE OF THE COUNTY RECORDER FOR THE COUNTY OF
SAN JOAQUIN, STATE OF CALIFORNIA.

LEGEND:
OVERALL DISTRICT BOUNDARY LINE

EXHIBIT B

ASSESSMENT DIAGRAM, ZONE 3
MILLSBRIDGE II
CITY OF LODI CONSOLIDATED LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT
NO. 2003-1 CITY OF LODI,
SAN JOAQUIN COUNTY
STATE OF CALIFORNIA

BEING THE SOUTHWEST QUARTER OF SECTION 11,
T.3 N., R. 6 E., M. D. B. & M.,
CITY OF LODI,
SAN JOAQUIN COUNTY, CALIFORNIA

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF LODI THIS
DAY OF _____ 2004.

CITY CLERK OF THE CITY OF LODI

RECORDED IN THE OFFICE OF THE SUPERINTENDENT OF STREETS THIS
DAY OF _____ 2004.

SUPERINTENDENT OF STREETS
OF THE CITY OF LODI

FILED THIS _____ DAY OF _____ 2004 AT THE HOUR
OF _____ M. IN BOOK _____ PAGE _____
OF MAP OF ASSESSMENTS AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF
THE COUNTY RECORDER OF THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

ASSESSOR-RECORDING-COUNTY CLERK
OF SAN JOAQUIN COUNTY, CALIFORNIA

AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL OF THE CITY OF LODI,
COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, ON THE PRECES AND PARCELS
OF LAND SHOWN ON THE ASSESSMENT DIAGRAM. THE ASSESSMENT WAS LEVIED
ON THE _____ DAY OF _____ 2003. THE ASSESSMENT DIAGRAM AND THE
ASSESSMENT ROLL ARE ON FILE IN THE OFFICE OF THE SUPERINTENDENT
OF STREETS OF THE CITY OF LODI. THE ASSESSMENT ROLL IS ON FILE IN THE
OFFICE OF THE SUPERINTENDENT OF STREETS FOR THE EXACT AMOUNT OF EACH ASSESSMENT
LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS ASSESSMENT DIAGRAM.

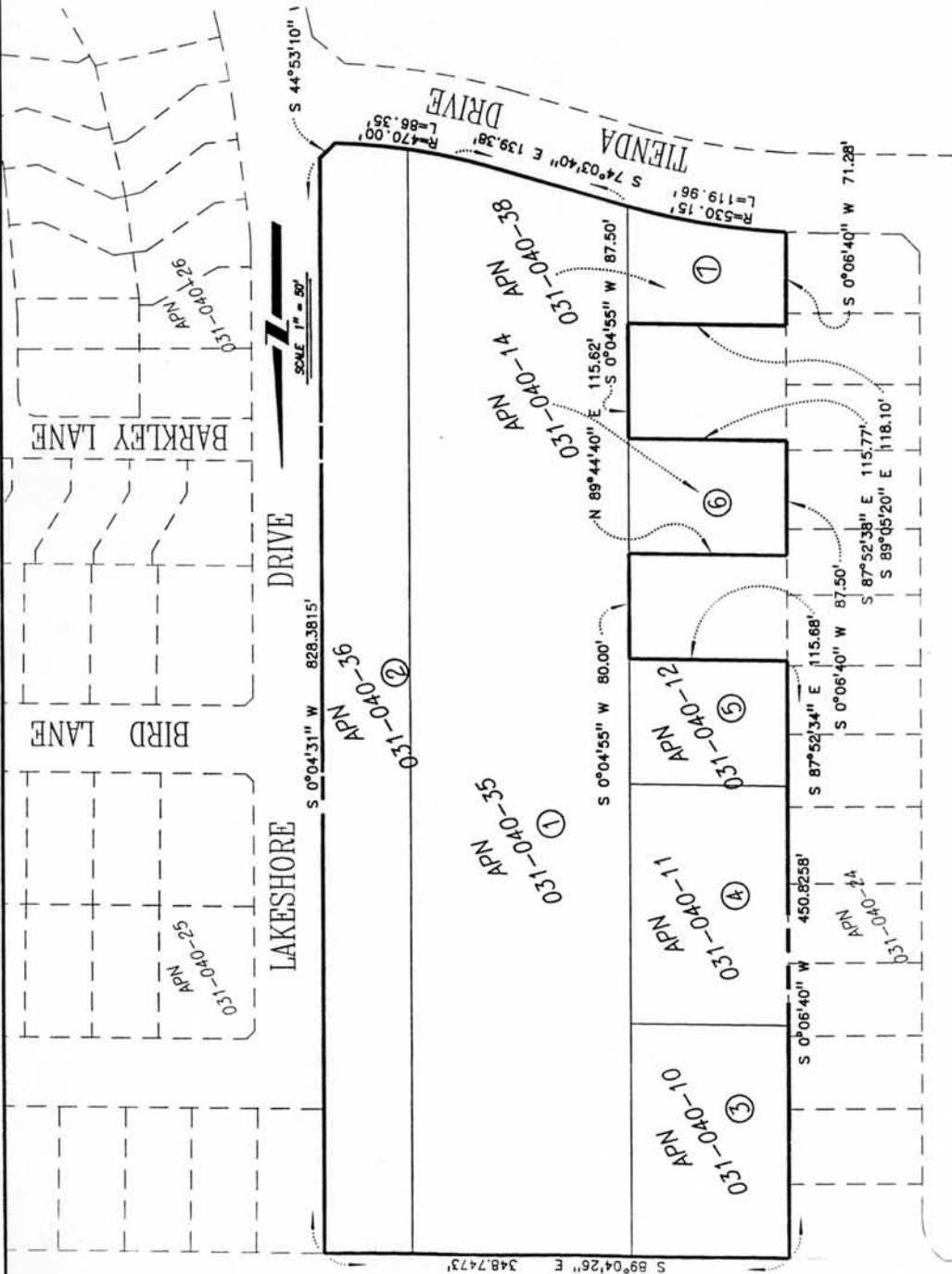
CITY CLERK OF THE CITY OF LODI

EXHIBIT C

SHEET 1 OF 2



THOMPSON-HYSELL
ENGINEERS
1000 EAST AVENUE, SUITE 100, Lodi, CA 95240
TEL: 209.339.1100 FAX: 209.339.1101



LEGEND:

- ASSESSMENT DISTRICT BOUNDARY LINE
- ASSESSMENT DISTRICT PARCEL NUMBER

- NOTES:
- ASSESSMENTS APPLY ONLY TO LAND LOCATED WITHIN THE CITY OF LODI AND WITHIN THE DESIGNATED ASSESSOR'S PARCELS.
 - THIS MAP WAS COMPILED FROM THE RECORD INFORMATION AND IS NOT THE RESULT OF A FIELD SURVEY.
 - THIS ASSESSMENT DISTRICT CONTAINS 8.03 ACRES.

ASSESSMENT DIAGRAM INDEX

BOOK	PAGE	PARCELS
082	080	10, 11, 12, 14, 35, 36, 38

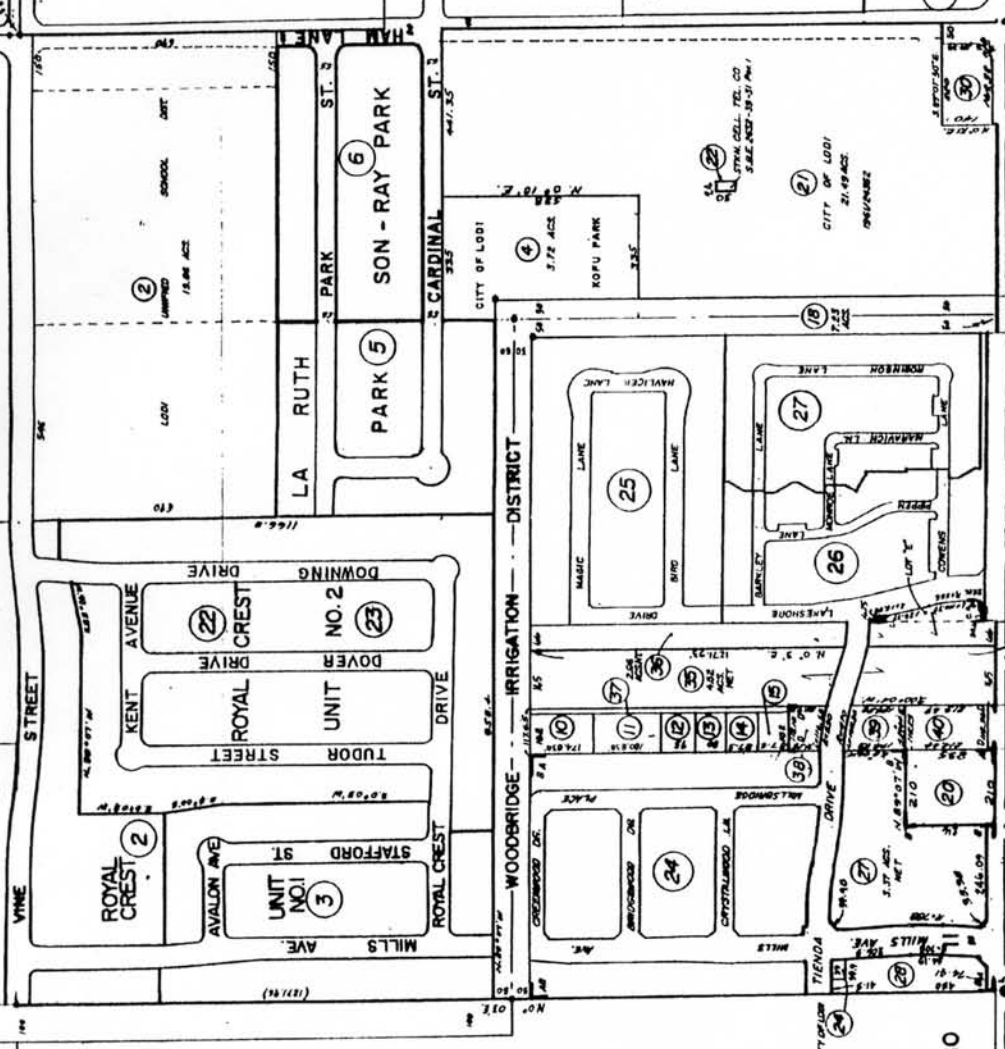
SUNSET SOUTH VISTA RAY 031-04

THIS MAP FOR
ASSESSMENT USE ONLY
POR.
C-TIENDA PLACE, UNIT NO. 1



SW. 1/4 SEC. 11 T3 N. R. 6 E.
SCALE 1"=300'
SAN JOAQUIN COUNTY
ASSESSORS MAPS

A - P. M. Bk. 7 Pg. 125
B - P. M. Bk. 20 Pg. 172
C - R. M. Bk. 36 Pg. 060
D - P. M. Bk. 22 Pg. 110



NO. 12

Bk. 050

Bk. 058

ASSESSMENT DIAGRAM, ZONE 4
ALMOND NORTH
CITY OF LODI CONSOLIDATED LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT
NO. 2003-1 CITY OF LODI,
SAN JOAQUIN COUNTY
STATE OF CALIFORNIA

BEING A PORTION OF LOT 14, A.J. LARSON'S
SUBDIVISION OF THE NORTHEAST QUARTER
OF SECTION 13, T.3N., R.6., M. D. B. & M.,
CITY OF LODI, SAN JOAQUIN COUNTY, CALIFORNIA

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF LODI THIS
DAY OF _____ 2004.

CITY CLERK OF THE CITY OF LODI

RECORDED IN THE OFFICE OF THE SUPERINTENDENT OF STREETS THIS
DAY OF _____ 2004.

SUPERINTENDENT OF STREETS
OF THE CITY OF LODI

FILED THIS _____ DAY OF _____ 2004 AT THE HOUR
OF _____ IN BOOK _____ PAGE _____
OF _____ MAP OF ASSESSMENTS AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF
THE COUNTY RECORDER OF THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

ASSESSOR-RECORDER-COUNTY CLERK
OF SAN JOAQUIN COUNTY, CALIFORNIA

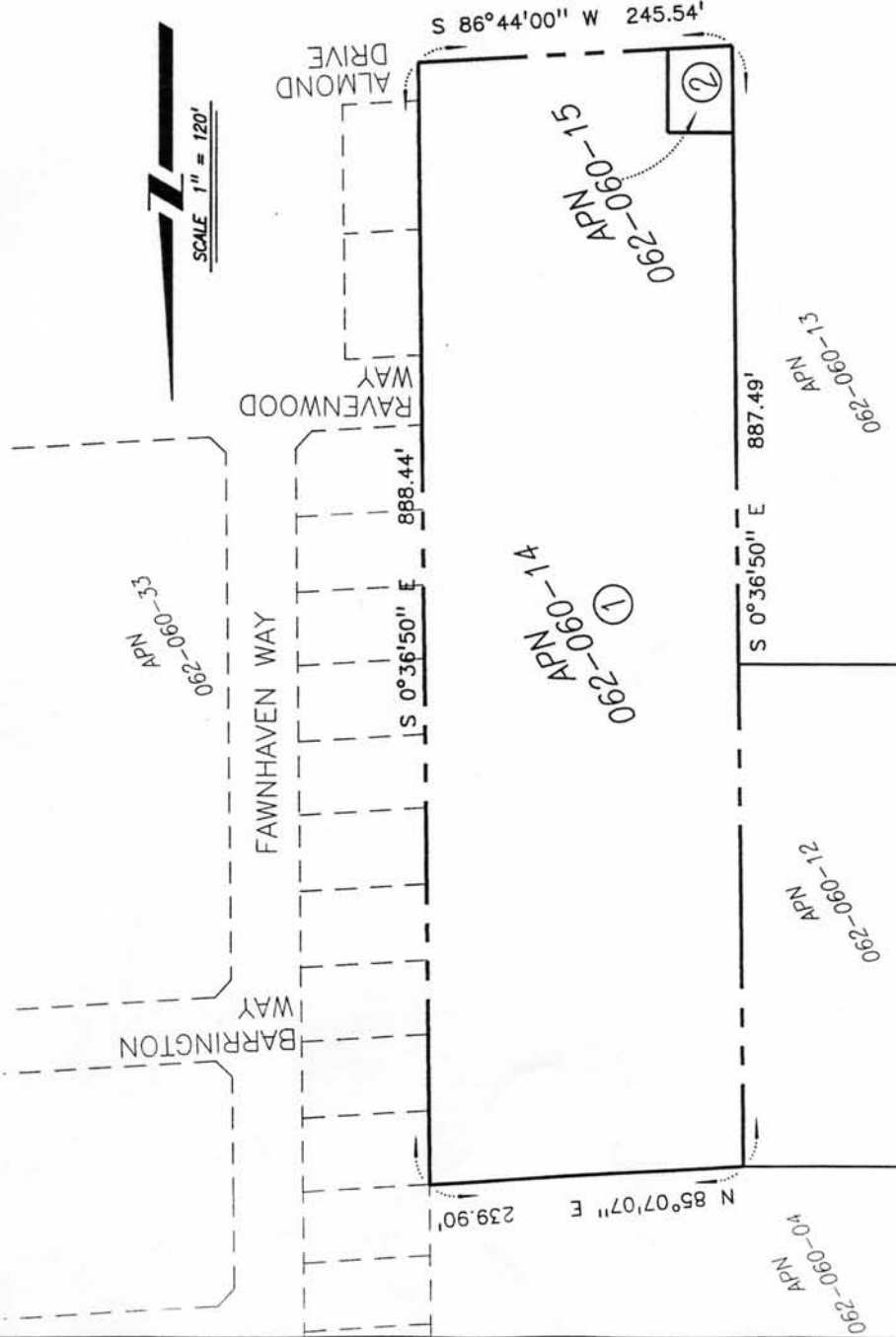
AN ASSESSMENT WAS LAYED BY THE CITY COUNCIL OF THE CITY OF LODI,
COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, ON THE PRECISE AND PARCELS
OF LAND SHOWN ON THE ASSESSMENT DIAGRAM. THE ASSESSMENT WAS LAYED
ON THE _____ DAY OF _____ 2004. THE ASSESSMENT DIAGRAM AND THE
ASSESSMENT ROLL WERE RECORDED IN THE OFFICE OF THE SUPERINTENDENT
OF STREETS OF THE CITY OF LODI ON THE _____ DAY OF _____ 2003.
REFERENCE IS MADE TO THE ASSESSMENT ROLL RECORDED IN THE OFFICE OF THE
SUPERINTENDENT OF STREETS FOR THE EXACT AMOUNT OF EACH ASSESSMENT
LEVIED AGAINST EACH PARCEL OF LAND SHOWN OF THIS ASSESSMENT DIAGRAM.

CITY CLERK OF THE CITY OF LODI

EXHIBIT C
SHEET 1 OF 2



**THOMPSON-HYSELL
ENGINEERS**
A MEMBER OF THE BURNS & MCDONNELL GROUP
1018 18TH STREET, SACRAMENTO, CA 95834 (916) 441-4000

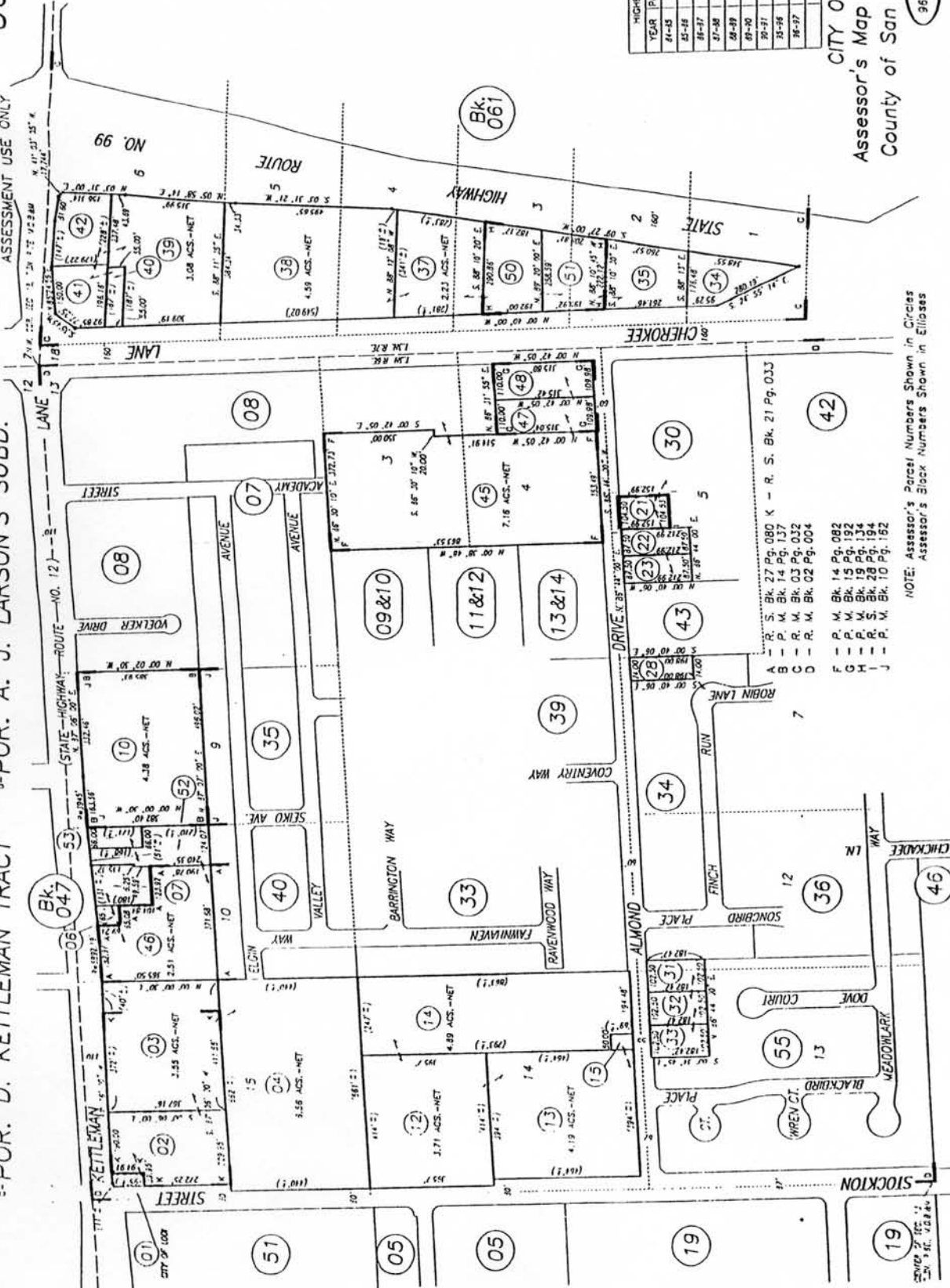


LEGEND:
ASSESSMENT DISTRICT BOUNDARY LINE
① ASSESSMENT DISTRICT PARCEL NUMBER

ASSESSMENT DIAGRAM INDEX
BOOK PAGE PARCELS
062 060 14, 15

- NOTES:
- ASSESSMENTS APPLY ONLY TO LAND LOCATED WITHIN THE CITY OF LODI AND WITHIN THE DESIGNATED ASSESSOR'S PARCELS.
 - THIS MAP WAS COMPILED FROM THE RECORD INFORMATION AND IS NOT THE RESULT OF A FIELD SURVEY.
 - THIS ASSESSMENT DISTRICT CONTAINS 5.00 ACRES.

THIS MAP FOR
ASSESSMENT USE ONLY



HIGHEST A.P.N. USED		
YEAR	PAR. #	PAR. #
61-65	42	
65-66	43	
66-67	44	
67-68	45	
68-69	46	
69-70	48	
70-71	49	
71-76	51	
76-77	53	

CITY OF LODI
Assessor's Map Bk.062 Pg. 06
County of San Joaquin, Calif.

NOTE: Assessor's Parcel Numbers Shown in Circles
Assessor's Block Numbers Shown in Ellipses

96-97

Resolution No. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL ADOPTING ENGINEER'S REPORT,
CONFIRMING THE ASSESSMENTS, OVERRULING PROTESTS AND DECLARING
ASSESSMENT BALLOTS RESULTS AND ANNEXING TWO TERRITORIES TO A
MAINTENANCE ASSESSMENT DISTRICT AND FORMING ZONE 3 AND ZONE 4

MILLSBRIDGE II ZONE 3
AND
ALMOND NORTH ZONE 4
LODI CONSOLIDATED LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT NO. 2003-1
(Landscaping and Lighting Act of 1972)

=====

NOW, THEREFORE, BE IT RESOLVED, by the Lodi City Council, that:

1. On March 17, 2004, this Council adopted A Resolution of Intention to Annex Two Territories to a Maintenance Assessment District, to Form two Zones and to Levy and Collect Assessments and a Resolution of Preliminary Determination and in them directed the Engineer to make and file a Report in writing in accordance with and pursuant to the Landscaping and Lighting Act of 1972 (the Act) in and for the City's proposed Millsbridge II Zone 3 and Almond North Zone 4 Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1.

2. The Report was made and filed and the Report was considered by this Council and found to be sufficient in every particular, whereupon it was determined that the Report be and it was preliminarily approved for all subsequent proceedings under and pursuant to the Resolution of Intention.

3. The City Council provided for the giving of Notice of the Public Hearing setting Wednesday May 5, 2004, at the hour of 7:00 p.m., in the meeting place of the Lodi City Council, Carnegie Forum, 305 West Pine Street, Lodi, California as the time for the Public Hearing to take testimony and for hearing protests in relation to the proposed assessment, the annexation of two territories to the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, the formation of Zone 3 and Zone 4, the maintenance of the improvements thereof, the property owner assessment ballot procedure required by Article XIII D of the California Constitution and final action upon the Engineer's Report.

4. The City Clerk has filed with the City Council a Certificate setting forth the time and manner of the compliance with the requirements of law for mailing Notices of the time and place for said Public Hearing and the Notice of the property owner assessment ballot procedure required by Article XIID of the California Constitution (together with the property owner assessment ballots) and the Council hereby finds that the Notice of the time and place for said Public Hearing thereon and Notice of the property owner assessment ballot procedure required by Article XIID of the California Constitution (together with the property owner assessment ballots) has been mailed in the time, form and manner required by law.

5. On May 5, 2004, at the time and place as set forth in Resolution 2004-49 the City Council held the Public Hearing and duly heard all interested parties desiring to be heard.

6. In accordance with Resolution No. 2004-49 and Article XIID of the California Constitution, property owner assessment ballots were provided to all of the property owners in said two territories to be annexed and at the close of the Public Hearing, the Clerk, the impartial person designated by the Council, tabulated the assessment ballots for each Zone submitted and not withdrawn and found that the assessment ballots in each Zone submitted, and not withdrawn, in opposition to the proposed assessment in each Zone did not exceed assessment ballots in each Zone submitted and not withdrawn in favor, weighing those assessment ballots in each Zone by the amount of the proposed assessment in each Zone to be imposed upon the identified parcels for which each assessment ballot in each Zone was submitted and the Council so found.

7. The City Council finds that any and all protests against the proposed assessment, maintenance of the improvements, or against the annexation of territory to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 or the formation of Zone 3 or the extent thereof or against the engineer's estimate of costs and expenses, in whole or as to any part, or against the diagram and descriptions in whole or in part (specifically all written protests not withdrawn in writing before the conclusion of the protest hearing) are made by the owners of less than one-half of the area of the land to be assessed. The City Council hereby overrules each of these protests, written and oral.

8. The City Council further finds that any and all protests against the proposed assessment, maintenance of the improvements, or against the annexation of territory to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 or the formation of Zone 4 or the extent thereof or against the engineer's estimate of costs and expenses, in whole or as to any part, or against the diagram and descriptions in whole or in part (specifically all written protests not withdrawn in writing before the conclusion of the protest hearing) are made by the owners of less than one-half of the area of the land to be assessed. The City Council hereby overrules each of these protests, written and oral.

9. The City has caused the distribution of assessment ballots, a summary of the procedures applicable to the completion, return and tabulation of assessment ballots, and a statement that the existence of a majority protest will result in the assessment not being imposed. The City hereby finds and declares that the two ballot measures have been submitted to the voters of land within the two territories to be annexed and after the tabulation of the assessment ballots for each Zone submitted and not withdrawn, that no majority protest against the assessment in either Zone existed because the assessment ballots in each Zone submitted in opposition to the assessment in each Zone did not exceed the ballots submitted in favor of the assessment in said Zone. In tabulating the ballots, they were weighted according to the proportional financial obligation of the affected properties.

10. The City Council hereby approves the Engineer's Report and each component part of it, including each Exhibit incorporated by reference in the Report. Reference is made to the Report for a full and detailed description of the improvements

to be maintained, the boundaries of the two territories to be annexed, Zone 3 and Zone 4 and the Assessments for each Zone.

11. The City Council hereby confirms the Assessment, Assessment Roll and the Diagrams as now on file with it, and declares the Engineer's Report and said Diagrams, Assessment and Assessment Roll as contained therein are hereby adopted and confirmed.

12. Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the Public Hearing, this Council expressly finds and determines that as to Zone 3 and Zone 4:

(a) each of the several subdivisions of land in the territories to be annexed will be specially benefited by the maintenance of the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the subdivisions of land, respectively; and

(b) there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the finding and determination as to special benefits.

13. The City Council determines and orders the territories described in the Engineer's Report be annexed to Lodi Consolidated Landscape Maintenance Assessment District, that Zone 3 and Zone 4 be formed and shall be known as Millsbridge II Zone 3 and Almond North Zone 4, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1.

14. This Council hereby orders that the improvements described in the Resolution of Intention be maintained, the formula and method of assessment to be used to pay the annual costs and expenses of the maintenance be confirmed, that the maximum annual assessment is established and is hereby ordered and confirmed as follows:

A. Zone 3 in the amount of \$323.00 per dueF per year

B. Zone 4 in the amount of \$401.00 per dueF per year

15. The City Council finds, determines and orders that the maximum annual assessment set forth in **Paragraph 14** of this resolution shall be annually increased in an amount equal to the greater of: 1) five percent (5%) or (2) the percentage increase of the Local Consumer Price Index (CPI). Consumer Price Index applied is for the San Francisco-Oakland-San Jose County Area for all Urban Consumers as developed by the U. S. Bureau of Labor Statistics for a similar period of time.

16. The City Council finds, determines and orders that for the 2004-2005 Fiscal Year there is hereby levied on each parcel in Zone 3 an actual assessment amount of \$224.00 per dwelling unit equivalent Factor (dueF) and on each parcel in Zone 4 an actual assessment amount of \$304.00 per dwelling unit equivalent Factor (dueF) as detailed in the Engineer's Report and Assessment Roll contained therein.

17. The City Council hereby directs the City Clerk to comply with Section 22641 of the Streets and Highways Code. The County Auditor/ Controller is requested to comply with the provisions of Section 22645 of the Streets and Highways Code in the collection of installments for taxes when levied by this Council.

18. This resolution shall take effect immediately upon its passage.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES:	COUNCIL MEMBERS -
NOES:	COUNCIL MEMBERS -
ABSENT:	COUNCIL MEMBERS -
ABSTAIN:	COUNCIL MEMBERS -

SUSAN J. BLACKSTON
City Clerk

2004-____

RECEIVED

MAR 24 2004

City Clerk
City of Lodi

CITY OF LODI
Millsbridge II Zone 3
Lodi Consolidated Landscape Maintenance
Assessment District No. 2003-1

CERTIFICATE OF MAILING NOTICE OF PUBLIC HEARING, ASSESSMENT BALLOT
PROCEDURE AND
PROPERTY OWNER ASSESSMENT BALLOT

I, Timothy J. Hachman, under penalty of perjury, certify as follows:

That for and on behalf of the Clerk of the City of Lodi, and on March 19, 2004, I caused to be mailed a Notice of Public Hearing and Assessment Ballot Procedure and Property Owner Assessment Ballot for the City of Lodi, Millsbridge II Zone 3, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, postage prepaid, to all persons or their authorized representatives owning real property proposed to be assessed whose names and addresses appear on the last San Joaquin County equalized assessment roll of general taxes or as are known to said City Clerk, a copy of which Notice and Property Owner Assessment Ballot is hereto attached and marked Exhibit "A."

Executed on March 22, 2004.


TIMOTHY J. HACHMAN

CITY OF LODI
MILLSBRIDGE II ZONE 3 LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

IMPORTANT – OFFICIAL PROPERTY OWNER ASSESSMENT BALLOT

This ballot is for the use of the property owner of the parcel identified below, which parcel is located within the proposed Millsbridge II Zone 3, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Please advise the City Clerk at (209) 333-6702 if the name set forth below is incorrect or if you are no longer the owner of the parcel.

This ballot may be used to express either support for or opposition to the proposed assessment. In order to be counted, this ballot must be marked "Yes" or "No", dated and signed in ink below by an owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk at the Lodi City Hall, 221 West Pine Street, Lodi, CA 95241-1910, either by mail or in person, as follows:

Mail Delivery If by mail. Place the ballot in the enclosed, self-addressed stamped return envelope and place in the mail not later than one calendar week prior to May 5, 2004. The City Clerk cannot be responsible for late delivery of mailed ballots.

Personal Delivery If in person, to the City Clerk during regular office hours (8:00a.m. to 5:00 p.m.) at any time up to 5:00 on May 5, 2004 at the City Clerk's office at Lodi City Hall, 221 West Pine Street, Lodi, CA or at the protest hearing itself, scheduled for 7:00 p.m. on that date in the regular meeting place of the Lodi City Council, Carnegie Forum, 305 West Pine Street Lodi, CA

Whether delivered by mail or in person, the ballot must be received by the City Clerk prior to the close of the public hearing on May 5, 2004.

TO CAST THIS BALLOT, VOTE, SIGN IN INK, DATE AND RETURN THIS ENTIRE PAGE

OFFICIAL ASSESSMENT BALLOT

Assessor's Parcel Number	Maximum Assessment Amount
031-040-35	\$4,522.00
031-040-36	\$4,199.00
Total:	\$8,721.00

Owner Name R Thomas Development, Inc Tokay Development, Inc. P. O. Box 1598 Lodi, CA 95241-1598	(Upon subdivision 27 lots/dueFs at a Maximum Annual Assessment Amount \$323.00 per lot/dueF)
Mark With an "X" in the appropriate blank	

BALLOT MEASURE

Shall the Lodi City Council annex Millsbridge II to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, form Zone 3 and levy a Maximum Assessment not to exceed the amount set forth above on the parcel(s) identified for street parkway trees amenities and park maintenance with annual maximum increases in future assessments in an amount equal to the greater of 5% or the percentage increase of the Local Consumer Price Index (CPI). CPI applied is for the San Francisco- Oakland- San Jose Area for All Urban Consumers, as developed by U. S. Bureau of Labor Statistics for a similar period of time?	YES _____
	NO _____

I hereby certify under penalty of perjury that I am the legal owner or the authorized representative of the legal property owner and am therefore the person to execute this ballot for the property shown above.

Date: _____, 2004 Property Owner Signature _____
Printed Name of Property Owner: R. Thomas Development, Inc.
Tokay Development, Inc.

DEADLINE FOR CITY CLERK TO RECEIVE COMPLETED BALLOTS IS May 5, 2004

CITY OF LODI
MILLSBRIDGE II ZONE 3 LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

IMPORTANT – OFFICIAL PROPERTY OWNER ASSESSMENT BALLOT

This ballot is for the use of the property owner of the parcel identified below, which parcel is located within the proposed Millsbridge II Zone 3, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Please advise the City Clerk at (209) 333-6702 if the name set forth below is incorrect or if you are no longer the owner of the parcel.

This ballot may be used to express either support for or opposition to the proposed assessment. In order to be counted, this ballot must be marked "Yes" or "No", dated and signed in ink below by an owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk at the Lodi City Hall, 221 West Pine Street, Lodi, CA 95241-1910, either by mail or in person, as follows:

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Whether delivered by mail or in person, the ballot must be received by the City Clerk prior to the close of the public hearing on May 5, 2004.

TO CAST THIS BALLOT, VOTE, SIGN IN INK, DATE AND RETURN THIS ENTIRE PAGE

OFFICIAL ASSESSMENT BALLOT

Assessor's Parcel Number 031-040-10	Maximum Assessment Amount \$969.00
--	---------------------------------------

Total: \$969.00

Owner Name Mazen M. Mardini 999 S. Fairmont Ave., Ste 115 Lodi, CA 95240-5100	(Upon subdivision 3 lots/dueFs at a Maximum Annual Assessment Amount \$323.00 per lot/dueF)
---	--

Mark With an "X" in the appropriate blank

BALLOT MEASURE

Shall the Lodi City Council annex Millsbridge II to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, form Zone 3 and levy a Maximum Assessment not to exceed the amount set forth above on the parcel(s) identified for street parkway trees amenities and park maintenance with annual maximum increases in future assessments in an amount equal to the greater of 5% or the percentage increase of the Local Consumer Price Index (CPI). CPI applied is for the San Francisco- Oakland- San Jose Area for All Urban Consumers, as developed by U. S. Bureau of Labor Statistics for a similar period of time?	YES _____
	NO _____

I hereby certify under penalty of perjury that I am the legal owner or the authorized representative of the legal property owner and am therefore the person to execute this ballot for the property shown above.

Date: _____, 2004 Property Owner Signature _____
Printed Name of Property Owner: Mazen M. Mardini

DEADLINE FOR CITY CLERK TO RECEIVE COMPLETED BALLOTS IS May 5, 2004

EXHIBIT

A

CITY OF LODI
MILLSBRIDGE II ZONE 3 LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

IMPORTANT – OFFICIAL PROPERTY OWNER ASSESSMENT BALLOT

This ballot is for the use of the property owner of the parcel identified below, which parcel is located within the proposed Millsbridge II Zone 3, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Please advise the City Clerk at (209) 333-6702 if the name set forth below is incorrect or if you are no longer the owner of the parcel.

This ballot may be used to express either support for or opposition to the proposed assessment. In order to be counted, this ballot must be marked "Yes" or "No", dated and signed in ink below by an owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk at the Lodi City Hall, 221 West Pine Street, Lodi, CA 95241-1910, either by mail or in person, as follows:

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Whether delivered by mail or in person, the ballot must be received by the City Clerk prior to the close of the public hearing on May 5, 2004.

TO CAST THIS BALLOT, VOTE, SIGN IN INK, DATE AND RETURN THIS ENTIRE PAGE

OFFICIAL ASSESSMENT BALLOT

Assessor's Parcel Number
031-040-12*
031-040-14

Maximum Assessment Amount
\$646.00
\$323.00

Total: \$969.00

Owner Name
Ronald B. Thomas Trust
P. O. Box 1598
Lodi, CA 95241-1598

* (Upon subdivision 2 lots/dueFs at a Maximum Annual
Assessment Amount \$323.00 per lot/dueF)

Mark With an "X" in the appropriate blank

BALLOT MEASURE

Shall the Lodi City Council annex Millsbridge II to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, form Zone 3 and levy a Maximum Assessment not to exceed the amount set forth above on the parcel(s) identified for street parkway trees amenities and park maintenance with annual maximum increases in future assessments in an amount equal to the greater of 5% or the percentage increase of the Local Consumer Price Index (CPI). CPI applied is for the San Francisco- Oakland- San Jose Area for All Urban Consumers, as developed by U. S. Bureau of Labor Statistics for a similar period of time?	YES _____
	NO _____

I hereby certify under penalty of perjury that I am the legal owner or the authorized representative of the legal property owner and am therefore the person to execute this ballot for the property shown above.

Date: _____, 2004

Property Owner Signature _____

Printed Name of Property Owner: Ronald B. Thomas Trust

DEADLINE FOR CITY CLERK TO RECEIVE COMPLETED BALLOTS IS May 5, 2004

EXHIBIT

A

CITY OF LODI
MILLSBRIDGE II ZONE 3 LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

IMPORTANT – OFFICIAL PROPERTY OWNER ASSESSMENT BALLOT

This ballot is for the use of the property owner of the parcel identified below, which parcel is located within the proposed Millsbridge II Zone 3, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Please advise the City Clerk at (209) 333-6702 if the name set forth below is incorrect or if you are no longer the owner of the parcel.

This ballot may be used to express either support for or opposition to the proposed assessment. In order to be counted, this ballot must be marked "Yes" or "No", dated and signed in ink below by an owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk at the Lodi City Hall, 221 West Pine Street, Lodi, CA 95241-1910, either by mail or in person, as follows:

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Personal Delivery If in person, to the City Clerk during regular office hours (8:00a.m. to 5:00 p.m.) at any time up to 5:00 on May 5, 2004 at the City Clerk's office at Lodi City Hall, 221 West Pine Street, Lodi, CA or at the protest hearing itself, scheduled for 7:00 p.m. on that date in the regular meeting place of the Lodi City Council, Carnegie Forum, 305 West Pine Street Lodi, CA

Whether delivered by mail or in person, the ballot must be received by the City Clerk prior to the close of the public hearing on May 5, 2004.

TO CAST THIS BALLOT, VOTE, SIGN IN INK, DATE AND RETURN THIS ENTIRE PAGE

OFFICIAL ASSESSMENT BALLOT

Assessor's Parcel Number 031-040-38	Maximum Assessment Amount \$646.00
Total: \$646.00	
Owner Name Darrell & Rhonda Sasaki 1806 Kettleman Lane, Ste H Lodi, CA 95242	(Upon subdivision 2 lots/dueFs at a Maximum Annual Assessment Amount \$323.00 per lot/dueF)

Mark With an "X" in the appropriate blank

BALLOT MEASURE

Shall the Lodi City Council annex Millsbridge II to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, form Zone 3 and levy a Maximum Assessment not to exceed the amount set forth above on the parcel(s) identified for street parkway trees amenities and park maintenance with annual maximum increases in future assessments in an amount equal to the greater of 5% or the percentage increase of the Local Consumer Price Index (CPI). CPI applied is for the San Francisco- Oakland- San Jose Area for All Urban Consumers, as developed by U. S. Bureau of Labor Statistics for a similar period of time?	YES _____ NO _____
---	---------------------------

I hereby certify under penalty of perjury that I am the legal owner or the authorized representative of the legal property owner and am therefore the person to execute this ballot for the property shown above.

Date: _____, 2004 Property Owner Signature _____
Printed Name of Property Owner: Darrell & Rhonda Sasaki

DEADLINE FOR CITY CLERK TO RECEIVE COMPLETED BALLOTS IS May 5, 2004

EXHIBIT

A

CITY OF LODI
MILLSBRIDGE II ZONE 3 LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

IMPORTANT – OFFICIAL PROPERTY OWNER ASSESSMENT BALLOT

This ballot is for the use of the property owner of the parcel identified below, which parcel is located within the proposed Millsbridge II Zone 3, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Please advise the City Clerk at (209) 333-6702 if the name set forth below is incorrect or if you are no longer the owner of the parcel.

This ballot may be used to express either support for or opposition to the proposed assessment. In order to be counted, this ballot must be marked "Yes" or "No", dated and signed in ink below by an owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk at the Lodi City Hall, 221 West Pine Street, Lodi, CA 95241-1910, either by mail or in person, as follows:

Mail Delivery If by mail. Place the ballot in the enclosed, self-addressed stamped return envelope and place in the mail not later than one calendar week prior to May 5, 2004. The City Clerk cannot be responsible for late delivery of mailed ballots.

Personal Delivery If in person, to the City Clerk during regular office hours (8:00a.m. to 5:00 p.m.) at any time up to 5:00 on May 5, 2004 at the City Clerk's office at Lodi City Hall, 221 West Pine Street, Lodi, CA or at the protest hearing itself, scheduled for 7:00 p.m. on that date in the regular meeting place of the Lodi City Council, Carnegie Forum, 305 West Pine Street Lodi, CA

Whether delivered by mail or in person, the ballot must be received by the City Clerk prior to the close of the public hearing on May 5, 2004.

TO CAST THIS BALLOT, VOTE, SIGN IN INK, DATE AND RETURN THIS ENTIRE PAGE

OFFICIAL ASSESSMENT BALLOT

Assessor's Parcel Number 031-040-11	Maximum Assessment Amount \$969.00
Total: \$969.00	
Owner Name Jeffrey/Carol Kirst Trust P. O. Box 1259 Woodbridge, CA 95258	(Upon subdivision 3 lots/dueFs at a Maximum Annual Assessment Amount \$323.00 per lot/dueF)

Mark With an "X" in the appropriate blank

BALLOT MEASURE

Shall the Lodi City Council annex Millsbridge II to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, form Zone 3 and levy a Maximum Assessment not to exceed the amount set forth above on the parcel(s) identified for street parkway trees amenities and park maintenance with annual maximum increases in future assessments in an amount equal to the greater of 5% or the percentage increase of the Local Consumer Price Index (CPI). CPI applied is for the San Francisco- Oakland- San Jose Area for All Urban Consumers, as developed by U. S. Bureau of Labor Statistics for a similar period of time?	YES _____ NO _____
---	---------------------------

I hereby certify under penalty of perjury that I am the legal owner or the authorized representative of the legal property owner and am therefore the person to execute this ballot for the property shown above.

Date: _____, 2004 Property Owner Signature _____
Printed Name of Property Owner: Jeffery/Carol Kirst Trust

DEADLINE FOR CITY CLERK TO RECEIVE COMPLETED BALLOTS IS May 5, 2004

EXHIBIT

A

NOTICE OF PUBLIC HEARING AND BALLOT PROCEDURE

CITY OF LODI COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA MILLSBRIDGE II ZONE 3 AND ALMOND NORTH ZONE 4

LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

Pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, commencing with Section 22500, California Government Code Section 53753 and Section 4 of Article XIII D of the California Constitution, the Lodi City Council the "Council" has ordered that Notice be given as follows:

MILLSBRIDGE II ZONE 3

PUBLIC HEARING

1. On Wednesday, MAY 5, 2004, at 7:00 P.M. (or as soon thereafter as circumstances permit), in the regular meeting place of the Lodi City Council, Carnegie Forum, 305 West Pine Street, Lodi, California, the Council will hold a Public Protest Hearing respecting the proposed annexation of territory (Millsbridge II) to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 (District) when and where: (i) the Council will hear all protests to the annexation, the maintenance budget and levy of assessments, (ii) the Clerk will tabulate the Assessment Ballots received, and not withdrawn, in support of or opposition to the proposed annexation and assessment, weighting the Assessment Ballots by the amount of the proposed assessments to be levied upon the identified parcel for which each Assessment Ballot was submitted, and (iii) the Council will consider and finally act upon the annexation, the proposed budget and levy of assessments. Any person interested may file a written protest with the City Clerk, City Hall, 221 West Pine Street, Lodi, CA 95241-1910, at or before the above time set for the Public Hearing. Wally Sandelin, Public Works Department, Telephone (209) 333-6709 is the person designated by the City Council to answer inquiries regarding the protest proceedings.

INFORMATION ABOUT THE PROJECT

2. The public improvements to be maintained by the proposed District are street parkway trees, amenities and park maintenance.

INFORMATION ABOUT COSTS, ASSESSMENT AND DURATION OF ASSESSMENTS

3. The proposed budget for the fiscal year 2004/2005 and the maximum annual budget with the individual parcels and amounts of estimated assessments are shown in the Engineer's Report on file with the City Clerk, City Hall, 221 West Pine Street, Lodi, CA 95241-1910. The estimated costs and expenses to be assessed to the benefited parcels also include related management and administrative expenses. Interested persons are referred to the City Clerk's Office to examine the Engineer's Report for further information.

4. The total best estimate of the costs and expenses of the proposed maintenance of improvements and related assessment proceedings for the fiscal year 2004-2005 is the total sum of \$8,512.00. The maximum annual cost and expense is \$12,274.00. The amount of the assessment proposed for your parcel is set forth in the Official Property Owners Assessment Ballot which

accompanies this Notice. The reason that an assessment is proposed for your parcel is that the Engineer's Report recommends and the Council has preliminarily determined that the property is specially benefited by the maintenance of the improvements.

5. The Engineer's Report recommends that each of the parcels shall be assessed on the basis of the number of "Dwelling Unit Equivalent Factor (dueF)" assigned to the parcel, with one dueF unit representing the benefit equivalent of a single-family residence. The proposed fiscal year 2004-2005 annual assessment per dueF is \$224.00. The proposed maximum annual assessment for each dueF is \$323.00. **The assessment will continue indefinitely.**

The maximum assessment amount for each fiscal year shall be increased in an amount equal to the greater of: 1) five percent (5.0%), or 2) the percentage increase of the Local Consumer Price Index (CPI). Consumer Price Index applied is for the San Francisco-Oakland-San Jose County Area for All Urban Consumers, as developed by U.S. Bureau of Labor Statistics for a similar period of time. **(By law the City can only implement this increase if and when the actual cost of maintenance increases above the present cost.)**

ASSESSMENT BALLOT PROCEDURE AND 'MAJORITY PROTEST'

6. As provided by Section 4 of Article XIID of the California Constitution and Section 53753 of the California Government Code the Official Property Owners Assessment Ballot has been enclosed with this Notice, along with a self-addressed stamped returned envelope by which the Assessment Ballot may be returned to the Clerk. This is THE Official Assessment Ballot to be signed and returned to the City Clerk. It is not a sample ballot. You will not receive any other or additional Assessment Ballot. In order to make this Assessment Ballot count, in determining whether a "majority protest" exists, you must mark it (with an "X" indicating YES or NO), date it, sign it and submit it to the City Clerk no later than the close of the Public Hearing of Protests. If for any reason any Assessment Ballot has not been received by the City Clerk prior to the close of the Public Hearing of Protests, it will not be considered.

After the Assessment Ballot has been marked "Yes" or "No", dated and signed, it may be returned in the enclosed self-addressed stamped return envelope. This Assessment Ballot may be used by the owner or owners of any parcel to express either support of or opposition to the proposed assessment. Please see the Assessment Ballot for instructions respecting the alternative methods for submitting the completed Assessment Ballot either by mail (which may be done by using the enclosed return stamped envelope) or by personal delivery either prior to or at the time of the close of the Public Hearing of Protests. See the enclosed Assessment Ballot for further instructions.

7. Immediately following the close of the Public Hearing of Protests, whether on May 5, 2004, or at the conclusion of any continuation of said Hearing to a later date or to later dates the City Clerk or designee will open and tabulate the Assessment Ballots received prior to the close of the Public Hearing and the results will be announced; provided that, in the event that the Clerk requires an opportunity to determine (a) whether any Assessment Ballot has been properly signed by an owner or authorized representative of an owner or (b) any other matter respecting any Assessment Ballot and its proper treatment in the assessment ballot procedure, the City Clerk reserves entitlement to continue the matter of announcing results to provide the Clerk with such opportunity.

The Assessment Ballots are weighted according to the proportional financial obligation the affected property has to the total Assessment amount. (Simplified, this means one vote for each one dollar of assessment.)

In the event that Assessment Ballots in opposition exceed those in support, there will be a "majority protest" and the Council will be precluded from proceeding with the proposed assessment.

NEED FOR WRITTEN STATEMENT OF GROUNDS OF PROTEST

8. Property owners wishing to preserve the opportunity to file a lawsuit challenging the assessment, if levied, are required by law to file a written protest and to state therein all the specific grounds of objection. Any grounds of objection not stated in a written protest filed prior to the close of the public hearing of protests are deemed waived in any subsequent lawsuit and may not be raised in such lawsuit.

FURTHER INFORMATION OR QUESTIONS

9. If For further information, you may refer to the Resolution of Intention and the Engineer's Report, both on file with the City Clerk at 221 West Pine Street, Lodi, CA. Said Resolution of Intention and Engineer's Report are open to public inspection and are incorporated herein by reference. All interested parties are especially referred to the Engineer's Report for a full description of the improvements, the parcels of land deemed specially benefited by the improvements, the proposed assessments on all of the parcels of land being assessed, and the method of estimating the proportionality of benefit amount to the parcels, using the dueF concept.

If you have questions about the assessment, please contact Wally Sandelin, Public Works Department (209) 333-6709. If you have questions about the Assessment Ballot, please contact the City Clerk's office at (209) 333-6702.

All proceedings before the City Council are conducted in English. The City of Lodi does not furnish interpreters and, if one is needed, it shall be the responsibility of the person needing one.

DATED: March 18, 2004

SUSAN J. BLACKSTON
City Clerk of the City of Lodi

RECEIVED

MAR 24 2004

City Clerk
City of Lodi

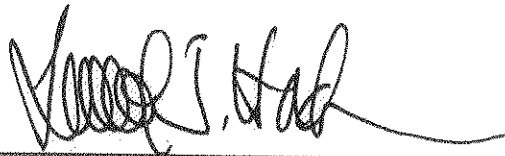
CITY OF LODI
Almond North Zone 4
Lodi Consolidated Landscape Maintenance
Assessment District No. 2003-1

CERTIFICATE OF MAILING NOTICE OF PUBLIC HEARING, ASSESSMENT BALLOT
PROCEDURE AND
PROPERTY OWNER ASSESSMENT BALLOT

I, Timothy J. Hachman, under penalty of perjury, certify as follows:

That for and on behalf of the Clerk of the City of Lodi, and on March 19, 2004, I caused to be mailed a Notice of Public Hearing and Assessment Ballot Procedure and Property Owner Assessment Ballot for the City of Lodi, Almond North Zone 4, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, postage prepaid, to all persons or their authorized representatives owning real property proposed to be assessed whose names and addresses appear on the last San Joaquin County equalized assessment roll of general taxes or as are known to said City Clerk, a copy of which Notice and Property Owner Assessment Ballot is hereto attached and marked Exhibit "A."

Executed on March 22, 2004.



TIMOTHY J. HACHMAN

CITY OF LODI

ALMOND NORTH ZONE 4 LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

IMPORTANT - OFFICIAL PROPERTY OWNER ASSESSMENT BALLOT

This ballot is for the use of the property owner of the parcel identified below, which parcel is located within the proposed Almond North Zone 4, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Please advise the City Clerk at (209) 333-6702 if the name set forth below is incorrect or if you are no longer the owner of the parcel.

This ballot may be used to express either support for or opposition to the proposed assessment. In order to be counted, this ballot must be marked "Yes" or "No", dated and signed in ink below by an owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk at the Lodi City Hall, 221 West Pine Street, Lodi, CA 95241-1910, either by mail or in person, as follows:

Mail Delivery If by mail. Place the ballot in the enclosed, self-addressed stamped return envelope and place in the mail not later than one calendar week prior to May 5, 2004. The City Clerk cannot be responsible for late delivery of mailed ballots.

Personal Delivery If in person, to the City Clerk during regular office hours (8:00a.m. to 5:00 p.m.) at any time up to 5:00 on May 5, 2004 at the City Clerk's office at Lodi City Hall, 221 West Pine Street, Lodi, CA or at the protest hearing itself, scheduled for 7:00 p.m. on that date in the regular meeting place of the Lodi City Council, Carnegie Forum, 305 West Pine Street Lodi, CA

Whether delivered by mail or in person, the ballot must be received by the City Clerk prior to the close of the public hearing on May 5, 2004.

TO CAST THIS BALLOT, VOTE, SIGN IN INK, DATE AND RETURN THIS ENTIRE PAGE

OFFICIAL ASSESSMENT BALLOT

Assessor's Parcel Number

062-060-14*

062-060-15

Maximum Assessment Amount

\$10,827.00

\$ 401.00

Total: \$11,228.00

Owner Name

Almond North, LLC

P. O. Box 1259

Woodbridge, CA 95258

* (Upon subdivision 27 lots/dues at a Maximum Annual Assessment Amount \$401.00 per lot/dues)

Mark With an "X" in the appropriate blank

BALLOT MEASURE

Shall the Lodi City Council annex Almond North to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, form Zone 4 and levy a Maximum Assessment to exceed the amount set forth above on the parcel(s) identified for street parkway trees amenities and park maintenance with annual maximum increases in future assessments in an amount equal to the greater of 5% the percentage increase of the Local Consumer Price Index (CPI). CPI applied is for the San Francisco- Oakland- San Jose Area for All Urban Consumers, as developed by U. S. Bureau of Labor Statistics for a similar period of time?

YES ☐NO ☐

I hereby certify under penalty of perjury that I am the legal owner or the authorized representative of the legal property owner and am therefore the person to execute this ballot for the property shown above.

Date: _____, 2004

Property Owner Signature _____

Printed Name of Property Owner: Almond North, LLC

DEADLINE FOR CITY CLERK TO RECEIVE COMPLETED BALLOTS IS May 5, 2004

EXHIBIT**A**

NOTICE OF PUBLIC HEARING AND BALLOT PROCEDURE

CITY OF LODI COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA MILLSBRIDGE II ZONE 3 AND ALMOND NORTH ZONE 4

LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1

Pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, commencing with Section 22500, California Government Code Section 53753 and Section 4 of Article XIIID of the California Constitution, the Lodi City Council the "Council" has ordered that Notice be given as follows:

ALMOND NORTH ZONE 4

PUBLIC HEARING

1. On Wednesday, MAY 5, 2004, at 7:00 P.M. (or as soon thereafter as circumstances permit), in the regular meeting place of the Lodi City Council, Carnegie Forum, 305 West Pine Street, Lodi, California, the Council will hold a Public Protest Hearing respecting the proposed annexation of territory (Almond North) to Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 (District) when and where: (i) the Council will hear all protests to the annexation, the maintenance budget and levy of assessments, (ii) the Clerk will tabulate the Assessment Ballots received, and not withdrawn, in support of or opposition to the proposed annexation and assessment, weighting the Assessment Ballots by the amount of the proposed assessments to be levied upon the identified parcel for which each Assessment Ballot was submitted, and (iii) the Council will consider and finally act upon the annexation, the proposed budget and levy of assessments. Any person interested may file a written protest with the City Clerk, City Hall, 221 West Pine Street, Lodi, CA 95241-1910, at or before the above time set for the Public Hearing. Wally Sandelin, Public Works Department, Telephone (209) 333-6709 is the person designated by the City Council to answer inquiries regarding the protest proceedings.

INFORMATION ABOUT THE PROJECT

2. The public improvements to be maintained by the proposed District are street parkway trees, amenities and park maintenance.

INFORMATION ABOUT COSTS, ASSESSMENT AND DURATION OF ASSESSMENTS

3. The proposed budget for the fiscal year 2004/2005 and the maximum annual budget with the individual parcels and amounts of estimated assessments are shown in the Engineer's Report on file with the City Clerk, City Hall, 221 West Pine Street, Lodi, CA 95241-1910. The estimated costs and expenses to be assessed to the benefited parcels also include related management and administrative expenses. Interested persons are referred to the City Clerk's Office to examine the Engineer's Report for further information.

4. The total best estimate of the costs and expenses of the proposed maintenance of improvements and related assessment proceedings for the fiscal year 2004-2005 is the total sum of \$8,512.00. The maximum annual cost and expense is \$11,228.00. The amount of the assessment proposed for your parcel is set forth in the Official Property Owners Assessment Ballot which

accompanies this Notice. The reason that an assessment is proposed for your parcel is that the Engineer's Report recommends and the Council has preliminary determined that the property is specially benefited by the maintenance of the improvements.

5. The Engineer's Report recommends that each of the parcels shall be assessed on the basis of the number of "Dwelling Unit Equivalent Factor (dueF)" assigned to the parcel, with one dueF unit representing the benefit equivalent of a single-family residence. The proposed fiscal year 2004-2005 annual assessment per dueF is \$304.00. The proposed maximum annual assessment for each dueF is \$401.00. **The assessment will continue indefinitely.**

The maximum assessment amount for each fiscal year shall be increased in an amount equal to the greater of: 1) five percent (5.0%), or 2) the percentage increase of the Local Consumer Price Index (CPI). Consumer Price Index applied is for the San Francisco-Oakland-San Jose County Area for All Urban Consumers, as developed by U.S. Bureau of Labor Statistics for a similar period of time. **(By law the City can only implement this increase if and when the actual cost of maintenance increases above the present cost.)**

ASSESSMENT BALLOT PROCEDURE AND 'MAJORITY PROTEST'

6. As provided by Section 4 of Article XIID of the California Constitution and Section 53753 of the California Government Code the Official Property Owners Assessment Ballot has been enclosed with this Notice, along with a self-addressed stamped returned envelope by which the Assessment Ballot may be returned to the Clerk. This is THE Official Assessment Ballot to be signed and returned to the City Clerk. It is not a sample ballot. You will not receive any other or additional Assessment Ballot. In order to make this Assessment Ballot count, in determining whether a "majority protest" exists, you must mark it (with an "X" indicating YES or NO), date it, sign it and submit it to the City Clerk no later than the close of the Public Hearing of Protests. If for any reason any Assessment Ballot has not been received by the City Clerk prior to the close of the Public Hearing of Protests, it will not be considered.

After the Assessment Ballot has been marked "Yes" or "No", dated and signed, it may be returned in the enclosed self-addressed stamped return envelope. This Assessment Ballot may be used by the owner or owners of any parcel to express either support of or opposition to the proposed assessment. Please see the Assessment Ballot for instructions respecting the alternative methods for submitting the completed Assessment Ballot either by mail (which may be done by using the enclosed return stamped envelope) or by personal delivery either prior to or at the time of the close of the Public Hearing of Protests. See the enclosed Assessment Ballot for further instructions.

7. Immediately following the close of the Public Hearing of Protests, whether on May 5, 2004, or at the conclusion of any continuation of said Hearing to a later date or to later dates the City Clerk or designee will open and tabulate the Assessment Ballots received prior to the close of the Public Hearing and the results will be announced; provided that, in the event that the Clerk requires an opportunity to determine (a) whether any Assessment Ballot has been properly signed by an owner or authorized representative of an owner or (b) any other matter respecting any Assessment Ballot and its proper treatment in the assessment ballot procedure, the City Clerk reserves entitlement to continue the matter of announcing results to provide the Clerk with such opportunity.

The Assessment Ballots are weighted according to the proportional financial obligation the affected property has to the total Assessment amount. (Simplified, this means one vote for each one dollar of assessment.)

In the event that Assessment Ballots in opposition exceed those in support, there will be a "majority protest" and the Council will be precluded from proceeding with the proposed assessment.

NEED FOR WRITTEN STATEMENT OF GROUNDS OF PROTEST

8. Property owners wishing to preserve the opportunity to file a lawsuit challenging the assessment, if levied, are required by law to file a written protest and to state therein all the specific grounds of objection. Any grounds of objection not stated in a written protest filed prior to the close of the public hearing of protests are deemed waived in any subsequent lawsuit and may not be raised in such lawsuit.

FURTHER INFORMATION OR QUESTIONS

9. If For further information, you may refer to the Resolution of Intention and the Engineer's Report, both on file with the City Clerk at 221 West Pine Street, Lodi, CA. Said Resolution of Intention and Engineer's Report are open to public inspection and are incorporated herein by reference. All interested parties are especially referred to the Engineer's Report for a full description of the improvements, the parcels of land deemed specially benefited by the improvements, the proposed assessments on all of the parcels of land being assessed, and the method of estimating the proportionality of benefit amount to the parcels, using the dueF concept.

If you have questions about the assessment, please contact Wally Sandelin, Public Works Department (209) 333-6709. If you have questions about the Assessment Ballot, please contact the City Clerk's office at (209) 333-6702.

All proceedings before the City Council are conducted in English. The City of Lodi does not furnish interpreters and, if one is needed, it shall be the responsibility of the person needing one.

DATED: March 18, 2004

SUSAN J. BLACKSTON
City Clerk of the City of Lodi



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Denial of Verified Claim(s) against the City of Lodi

MEETING DATE: May 5, 2004

PREPARED BY: Risk Management

RECOMMENDED ACTION: To approve by motion action, denial of the following verified Claim filed against the City of Lodi.

(A) Farr Associates DOL: 9/03-current

(B) Envision Law Group, LLP DOL: not stated

BACKGROUND INFORMATION: Following review of verified claims filed against the City of Lodi, it is recommend the City deny the subject claim(s).

FUNDING: None Required

Kirk Evans, Risk Manager

Attachments

cc: Interim City Attorney

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI

COUNCIL COMMUNICATION

TM

AGENDA TITLE: Post for Expiring Terms and Vacancies on the Greater Lodi Area Youth Commission

MEETING DATE: May 5, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Council, by motion action, direct the City Clerk to post for expiring terms and vacancies on the Greater Lodi Area Youth Commission.

BACKGROUND INFORMATION: Several terms (both adult advisors and student members) on the Greater Lodi Area Youth Commission are due to expire shortly, with one adult advisor and a number of student members resigning this year. It is, therefore, recommended that the City Council direct the City Clerk to post for the expiring terms and vacancies below.

Greater Lodi Area Youth Commission

Adult Advisors:

MaryAnn Porterfield Term to expire August 30, 2004
Samir Berbawy Term to expire August 30, 2006

Student Members:

Mary Goad Term to expire August 30, 2004
Courtney Cook Term to expire August 30, 2004
Katie Wagenman Term to expire August 30, 2004
Ricky Gill Term to expire August 30, 2004
Gabi del Castillo Term to expire August 30, 2004
Karlyn Nieland Term to expire August 30, 2005
Joe Nardinelli Term to expire August 30, 2005

State statute requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application. The City Council is requested to direct the City Clerk to make the necessary postings.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing the City Manager to execute electric utility rate contracts for three commercial/industrial customers; Kubota Tractor Corporation, Larry Methvin Installation and Lodi Memorial Hospital (EUD)

MEETING DATE: May 5, 2004

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing the City Manager to execute new electric utility rate contracts for three commercial/industrial customers; Kubota Tractor Corporation, Larry Methvin Installation and Lodi Memorial Hospital.

BACKGROUND INFORMATION: In October of 2003, the Electric Utility Department presented to the Lodi City Council numerous electric utility rate contracts for either new industrial customers, or for existing industrial customers. The contracts for existing industrial customers were approved as contracts that would transition these customers to a published electric utility rate over a designated period of time.

By way of this Council item, Electric Utility staff is recommending approval of two (2) electric utility rate contracts for new industrial customers Kubota Tractor Corporation and Larry Methvin Installation, Incorporated. The proposed rate contracts are for periods of three years and two years, respectively. The rate discounts provided for each of these new customers is designed as an economic incentive tool, as a part of the City of Lodi economic development policy, to locate their operations within the city.

The third contract included in this Council item is for Lodi Memorial Hospital. The hospital was on a contract rate for several years, however, that contract has expired. The proposed new electric utility rate contract will be for a period of three years, and includes a 12.9 percent rate increase over the previous contract utility rate provided to the hospital.

Electric Utility staff has worked closely with representatives from each of the three customers included in this Council action, and the customers are informed as to the elements of the proposed electric utility rate contracts. Electric Utility staff respectfully recommends approval of these electric utility rate contracts.

FUNDING: N/A

Alan N. Vallow
Electric Utility Director

PREPARED BY: Rob Lechner, Manager of Customer Service & Programs

ANV/RL/1st
Attachments

cc: City Attorney

Finance Director

APPROVED: _____
H. Dixon Flynn, City Manager

RATE AGREEMENT
BETWEEN
KUBOTA TRACTOR CORPORATION
AND
THE CITY OF LODI

This Agreement is made by, and between, **Kubota Tractor Corporation** ("Customer") and the CITY OF LODI ("City"), collectively called "the Parties" and individually as "Party". This Agreement supersedes the City's mandatory Rate Schedule assignment for this Customer.

WITNESSETH:

WHEREAS, City operates an electric utility system supplying electric power to City customers; and

WHEREAS, Customer is a significant new customer; and

WHEREAS, City desires to provide the new Customer a discount on their eligible rate schedule for three years as an economic incentive to locate in the City of Lodi as part the City's economic development policy.

NOW, THEREFORE, the Parties hereto agree as follows:

Section 1. **Definitions.** Whenever used in this Agreement, in either the singular or plural number, the following terms shall have the following respective meanings:

- 1.1 "Agreement" is this contract.
- 1.2 "City" is the City of Lodi, a California Municipal Corporation.
- 1.3 "Customer" is Kubota Tractor Corporation.
- 1.4 "Facility" is the Customer's facility receiving service as identified in Exhibit "A."
- 1.5 "Account" is defined in Exhibit "A" for the Customer.
- 1.6 "Parties" are collectively Customer and City.

- 1.7 "kWh" is a kilowatt-hour, an energy charge-billing unit.
- 1.8 "Billing cycle" is the monthly bill.
- 1.9 "Force Majeure," as used herein, means unforeseeable causes beyond the reasonable control of and without the fault or negligence of the Party claiming force majeure. Such an occurrence may include, but is not limited to, acts of God, labor disputes, sudden actions of the elements, actions or inactions by federal, state and municipal agencies, and actions or inactions of legislative, judicial, or regulatory agencies.
- 1.10 "Eligible rate" is the scheduled rate at which the Customer would qualify given historical consumption at their current Stockton, California facility (located at 6665 Hardaway Road, Stockton, CA), served by Pacific Gas & Electric Company.
- 1.11 "Totalization" is the aggregation of all individual meter data for all meters serving the facility so as to create a single-billed account under a single rate schedule.

Section 2. **Rate Application.**

The billing cycle charge for the Customer shall be a 25 percent discount of the eligible rate for the Facilities and Accounts defined in Exhibit "A" over a three-year period, commencing January 1, 2005. Exhibit "A" also identifies what Facilities and Accounts will be totalized or treated as individual facilities for billing purposes. The billing cycle shall be the published G-2 electric utility rate, minus 25 percent, plus a customer charge of \$56.13 per meter per month.

After this contract expires, the Customer shall be assigned to the eligible rate at that time (the published G-2 electric utility rate).

Section 3. **Terms of Agreement.**

- 3.1 Upon signing by all Parties, this Agreement shall be binding for bills rendered on or after January 1, 2005, and shall remain in effect, subject to Paragraph 3.2 below, for bills rendered through December 31, 2007.
- 3.2 If either party fails to perform any of the provisions of this Agreement, the other party may, by written notice given within thirty days of such failure to perform, terminate this agreement. Customer may appeal such termination in writing to the Electric Utility Director. This is in addition to any other legal recourse Customer may have.

Section 4. **Force Majeure.**

- 4.1 If either Party because of Force Majeure is rendered wholly or partly unable to perform its obligations under this Agreement, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that:
- The non-performing Party, within two weeks after the occurrence of the Force Majeure, shall give the other party a written report describing the particulars of the occurrence.
- The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure.
- 4.2 No obligations of either Party which arose before the occurrence causing the suspension of performance are excused as a result of the occurrence.
- 4.3 The non-performing Party uses its best efforts to remedy its inability to perform. This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgement of the Party involved in the dispute, are contrary to its interest.
- It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty.

Section 5. **Assignments.**

- 5.1 Neither Party shall voluntarily assign its rights nor delegate its duties under this Agreement without the written consent of the other Party.

Section 6. **Amendments.**

- 6.1 This Agreement may be amended only by written instrument executed by the Parties or their successors.

Section 7. **Severability.**

- 7.1 In the event that any of the terms, covenants, or conditions of this Agreement shall be held invalid, the Parties intend that all other terms, covenants, and conditions and their application shall not be affected thereby, but shall remain in force and effect unless a court holds that such provisions are not severable from all other provisions of this Agreement.

Section 8. **Governing Law.**

- 8.1 This Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

Section 9. **Counterparts.**

- 9.1 This Agreement may be executed in counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

Section 10. **Headings.**

- 10.1 The headings to the articles in this Agreement are intended for convenience only and not for the purpose of interpreting the provisions of this Agreement.

Section 11. **Notices.**

- 11.1 Any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party to the other may be so given, tendered or delivered, as the case may be, by depositing the same in any United

States Post Office with postage prepaid, for transmission by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address designated below. Changes in such designation may be made by notice similarly given.

11.2 All written notices or questions shall be directed as follows:

To City: ELECTRIC UTILITY DIRECTOR

 CITY OF LODI

 1331 SOUTH HAM LANE

 LODI CA 95242-3995

To Customer: KUBOTA TRACTOR CORPORATION

 6665 E. HARDAWAY ROAD

 STOCKTON CA 95215

Section 12. **Non-waiver.**

12.1 None of the provisions of the Agreement shall be considered waived by either Party except when such waiver is given in writing. The failure of any Party at any time or times to enforce any right or obligation with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to future enforcement of that right or obligation or any right or obligation of the Agreement.

Section 13. **Warranty of Authority.**

- 13.1 Each of the Parties which has executed and delivered this Agreement represents and warrants that it has agreed to be bound by all the terms, covenants, and conditions of this Agreement and has acted with all the requisite capacity and authority and approval of its governing body.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers and their seal to be affixed, as of the day and year herein written.

CITY OF LODI

H. Dixon Flynn, City Manager

Date

KUBOTA TRACTOR CORP.

Russ Cobb, Senior Director

Date

APPROVED AS TO FORM:

D. Stephen Schwabauer
Interim City Attorney

ATTEST:

Susan J. Blackston
City Clerk

RATE AGREEMENT

BETWEEN

Lodi Memorial Hospital

AND

THE CITY OF LODI

This Agreement is made by, and between, **Lodi Memorial Hospital** ("Customer") and the CITY OF LODI ("City"), collectively called "the Parties" and individually as "Party". This Agreement supersedes the City's mandatory Rate Schedule assignment for this Customer.

WITNESSETH:

WHEREAS, City operates an electric utility system supplying electric power to City customers; and

WHEREAS, City desires to provide this Customer with a utility rate contract for a period of three years;

NOW, THEREFORE, the Parties hereto agree as follows:

Section 1. Definitions. Whenever used in this Agreement, in either the singular or plural number, the following terms shall have the following respective meaning:

- 1.1 "Agreement" is this contract.
- 1.2 "City" is the City of Lodi, a California Municipal Corporation.
- 1.3 "Customer" is Lodi Memorial Hospital.
- 1.4 "Facility" is the Customer's facility (or facilities) receiving service as identified in Exhibit "A".
- 1.5 "Account" is defined in Exhibit "A" for the Customer.
- 1.6 "Parties" are collectively Customer and City.
- 1.7 "kWh" is a kilowatt-hour, an energy charge billing unit.

1.8 "Billing cycle" is the monthly bill.

1.9 "Force Majeure", as used herein, means unforeseeable causes beyond the reasonable control of and without the fault or negligence of the Party claiming force majeure. Such an occurrence may include, but is not limited to, acts of God, labor disputes, sudden actions of the elements, actions or inactions by federal, state and municipal agencies, and actions or inactions of legislative, judicial, or regulatory agencies.

1.10 "Eligible rate" is the scheduled rate at which the Customer would qualify given historical consumption.

1.11 "Totalization" is the aggregation of all individual meter data for all meters serving the facility so as to create a single billed account under a single rate schedule.

Section 2. Rate Application.

The billing cycle charge for the Customer shall be the eligible rate for the Facilities and Accounts defined in Exhibit “A” over a three-year period, commencing June 1, 2004. Exhibit “A” also defines what Facilities and Accounts will be totalized or treated as individual facilities for billing purposes. The eligible winter rate and summer rate, for all facilities identified in this contract (Exhibit “A”) are as follows:

- winter rate (November 1-April 30)- .0700/kWh;
- summer rate (May 1-October 31)- .0895/kWh;
- Demand Charge: \$0.00 per kw;
- Customer Charge: As per otherwise applicable electric rate schedule per account.

Section 3. Terms of Agreement.

- 3.1 Upon signing by all Parties, this Agreement shall be binding for bills rendered on or after June 1, 2004, and shall remain in effect, subject to Paragraph 3.2 below, for bills rendered through May 30, 2007.
- 3.2 If either party fails to perform any of the provisions of this Agreement, the other party may, by written notice given within ninety days of such failure to perform, terminate this agreement. Customer may appeal such termination in writing to the Electric Utility Director. This is in addition to any other legal recourse Customer may have.

Section 4. Force Majeure.

- 4.1 If either Party because of Force Majeure is rendered wholly or partly unable to perform its obligations under this Agreement, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that:
- The non-performing Party, within two weeks after the occurrence of the Force Majeure, shall give the other party a written report describing the particulars of the occurrence.

The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure.

4.2 No obligations of either Party which arose before the occurrence causing the suspension of performance are excused as a result of the occurrence.

4.3 The non-performing Party uses its best efforts to remedy its inability to perform. This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgement of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty.

Section 5. Assignments.

5.1 Neither Party shall voluntarily assign its rights nor delegate its duties under this Agreement without the written consent of the other Party.

Section 6. Amendments.

- 6.1 This Agreement may be amended only by written instrument executed by the Parties or their successors.

Section 7. Severability.

- 7.1 In the event that any of the terms, covenants, or conditions of this Agreement shall be held invalid, the Parties intend that all other terms, covenants, and conditions and their application shall not be affected thereby, but shall remain in force and effect unless a court holds that such provisions are not severable from all other provisions of this Agreement.

Section 8. Governing Law.

- 8.1 This Agreement shall be interpreted, governed by and construed under the laws of the State of California.

Section 9. Counterparts.

- 9.1 This Agreement may be executed in counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

Section 10. Headings.

- 10.1 The headings to the articles in this Agreement are intended for convenience only and not for the purpose of interpreting the provisions of this Agreement.

Section 11. Notices.

- 11.1 Any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party to the other may be so given, tendered or delivered, as the case may be, by depositing the same in any United States Post Office with postage prepaid, for transmission by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address designated below. Changes in such designation may be made by notice similarly given;

11.2 All written notices or questions shall be directed as follows:

To City: ELECTRIC UTILITY DIRECTOR

 CITY OF LODI

 1331 SOUTH HAM LANE

 LODI, CA 95242-3995

To Customer: LODI MEMORIAL HOSPITAL

 975 S. FAIRMONT AVENUE

 LODI, CA 95240

Section 12. Non-waiver.

12.1 None of the provisions of the Agreement shall be considered waived by either Party except when such waiver is given in writing. The failure of any Party at any time or times to enforce any right or obligation with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to future enforcement of that right or obligation or any right or obligation of the Agreement.

Section 13. Warranty of Authority.

- 13.1 Each of the Parties which has executed and delivered this Agreement represents and warrants that it has agreed to be bound by all the terms, covenants, and conditions of this Agreement and has acted with all the requisite capacity and authority and approval of its governing body.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers and their seal to be affixed, as of the day and year herein written.

CITY OF LODI

LODI MEMORIAL
HOSPITAL

H. Dixon Flynn
City Manager

Joseph Harrington
Chief Exec. Officer

Date

Date

Approved as to Form:

Stephen Schwabauer
City Attorney

ATTEST:

Susan J. Blackston
City Clerk

RATE AGREEMENT
BETWEEN
LARRY METHVIN INSTALLATION, INCORPORATED
AND
THE CITY OF LODI

This Agreement is made by, and between, Larry Methvin Installation, Incorporated ("Customer") and the CITY OF LODI ("City"), collectively called "the Parties" and individually as "Party". This Agreement supersedes the City's mandatory Rate Schedule assignment for this Customer.

WITNESSETH:

WHEREAS, City operates an electric utility system supplying electric power to City customers; and

WHEREAS, Customer is a significant new customer; and

WHEREAS, City desires to provide the new Customer with a discount to their eligible rate schedule over two (2) years as an economic incentive to locate in the City of Lodi as part the City's economic development policy.

NOW, THEREFORE, the Parties hereto agree as follows:

Section 1. **Definitions.** Whenever used in this Agreement, in either the singular or plural number, the following terms shall have the following respective meanings:

- 1.1 "Agreement" is this contract.
- 1.2 "City" is the City of Lodi, a California Municipal Corporation.
- 1.3 "Customer" is Larry Methvin Installation, Incorporated.
- 1.4 "Facility" is the Customer's facility receiving service as identified in Exhibit "A."
- 1.5 "Account" is defined in Exhibit "A" for the Customer.
- 1.6 "Parties" are collectively Customer and City.

- 1.7 "kWh" is a kilowatt-hour, an energy charge-billing unit.
- 1.8 "Billing cycle" is the monthly bill.
- 1.9 "Force Majeure", as used herein, means unforeseeable causes beyond the reasonable control of and without the fault or negligence of the Party claiming force majeure. Such an occurrence may include, but is not limited to, acts of God, labor disputes, sudden actions of the elements, actions or inactions by federal, state and municipal agencies, and actions or inactions of legislative, judicial, or regulatory agencies.
- 1.10 "Eligible rate" is the scheduled rate at which the Customer would qualify given historical consumption utilized from the previous glass manufacturer located at this facility in 2003.
- 1.11 "Totalization" is the aggregation of all individual meter data for all meters serving the facility so as to create a single-billed account under a single rate schedule.

Section 2. **Rate Application.**

The billing cycle charge for the Customer shall be at the current, published G-4 electric utility rate, minus a 15 percent rate discount for the Facilities and Accounts defined in Exhibit "A" over a two-year period, commencing June 1, 2004. Exhibit "A" identifies the Facilities as only those located at 875 North Stockton Street, and will be treated as individual facilities for billing purposes.

The billing cycle shall be based on the current City of Lodi published G-4 electric utility rate energy charge, the appropriate Market Cost Adjustment and demand charge (minus the 15 percent rate discount), plus a customer charge of \$128.13 per month, per meter for energy delivery. After this contract expires, the Customer shall be assigned to the eligible rate, with no rate discount.

Section 3. **Terms of Agreement.**

- 3.1 Upon signing by all Parties, this Agreement shall be binding for bills rendered on or after June 1, 2004, and shall remain in effect, subject to Paragraph 3.2 below, for bills rendered through May 30, 2006.
- 3.2 If either party fails to perform any of the provisions of this Agreement, the other party may, by written notice given within thirty days of such failure to perform, terminate this agreement. Customer may appeal such termination in writing to the Electric Utility Director. This is in addition to any other legal recourse Customer may have.

Section 4. **Force Majeure.**

- 4.1 If either Party because of Force Majeure is rendered wholly or partly unable to perform its obligations under this Agreement, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that:
- The non-performing Party, within two weeks after the occurrence of the Force Majeure, shall give the other party a written report describing the particulars of the occurrence.
- The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure.
- 4.2 No obligations of either Party which arose before the occurrence causing the suspension of performance are excused as a result of the occurrence.
- 4.3 The non-performing Party uses its best efforts to remedy its inability to perform. This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgement of the Party involved in the dispute, are contrary to its interest.
- It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty.

Section 5. **Assignments.**

- 5.1 Neither Party shall voluntarily assign its rights nor delegate its duties under this Agreement without the written consent of the other Party.

Section 6. **Amendments.**

- 6.1 This Agreement may be amended only by written instrument executed by the Parties or their successors.

Section 7. **Severability.**

- 7.1 In the event that any of the terms, covenants, or conditions of this Agreement shall be held invalid, the Parties intend that all other terms, covenants, and conditions and their application shall not be affected thereby, but shall remain in force and effect unless a court holds that such provisions are not severable from all other provisions of this Agreement.

Section 8. **Governing Law.**

- 8.1 This Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

Section 9. **Counterparts.**

- 9.1 This Agreement may be executed in counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

Section 10. **Headings.**

- 10.1 The headings to the articles in this Agreement are intended for convenience only and not for the purpose of interpreting the provisions of this Agreement.

Section 11. **Notices.**

- 11.1 Any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party to the other may be so given, tendered or delivered, as the case may be, by depositing the same in any United

States Post Office with postage prepaid, for transmission by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address designated below. Changes in such designation may be made by notice similarly given.

11.2 All written notices or questions shall be directed as follows:

To City: ELECTRIC UTILITY DIRECTOR

 CITY OF LODI

 1331 SOUTH HAM LANE

 LODI CA 95242-3995

To Customer: LARRY METHVIN INSTALLATION, INC.

 875 NORTH STOCKTON STREET

 LODI CA 95240

Section 12. **Non-waiver.**

12.1 None of the provisions of the Agreement shall be considered waived by either Party except when such waiver is given in writing. The failure of any Party at any time or times to enforce any right or obligation with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to future enforcement of that right or obligation or any right or obligation of the Agreement.

Section 13. **Warranty of Authority.**

13.1 Each of the Parties which has executed and delivered this Agreement represents and warrants that it has agreed to be bound by all the terms, covenants, and conditions of this Agreement and has acted with all the requisite capacity and authority and approval of its governing body.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers and their seal to be affixed, as of the day and year herein written.

CITY OF LODI

**LARRY METHVIN
INSTALLATION,
INCORPORATED**

H. Dixon Flynn, City Manager

Kent Snyder, President

Date

Date

APPROVED AS TO FORM:

D. Stephen Schwabauer
Interim City Attorney

ATTEST:

Susan J. Blackston
City Clerk

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE
ELECTRIC UTILITY RATE CONTRACTS BETWEEN
THE CITY OF LODI AND THREE COMMERCIAL/
INDUSTRIAL CUSTOMERS: KUBOTA TRACTOR
CORPORATION, LARRY METHVIN INSTALLATION,
AND LODI MEMORIAL HOSPITAL

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute electric utility rate contracts between the City of Lodi and Kubota Tractor Corporation, Larry Methvin Installation, and Lodi Memorial Hospital.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve plans and specifications, authorize advertisement for bids for installation of streetlights on Phase IV of the Streetlight Completion Project, and authorize the transfer of funds for the project (\$980,000) (EUD)

MEETING DATE: May 5, 2004

SUBMITTED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council approve the plans and specifications and authorize advertisement for bids for installation of streetlights on Phase IV of the Streetlight Completion Project and authorize the transfer of funds for the project.

BACKGROUND INFORMATION: One of the City's goals is to provide streetlighting in unlit portions of the City. This project, known as the Streetlight Completion Project, is estimated to install 1000 – 1200 lights over a period of 3 – 5 years at a cost of \$ 3.5 – 4 million in several phases. Phase IV will install a total of 292 streetlights in various areas throughout the City. A contractor through the bid process, this item, will install 267 of these lights (109 steel standards and 158 City furnished concrete standards). City forces will install 25 streetlights on existing wood utility poles. This recommendation will also provide funding for construction contract management as well as other construction work by City forces. In addition the recommended transfer will provide funding for ongoing design of Phase V and expenditures incurred to date in excess of previous funding.

The estimated cost of the construction contract is \$802,000.

The recommended amount of transfer from the Electric System Revenue Certificates of Participation is \$980,000

Bid opening has been scheduled for May 18, 2004.

FUNDING: Electric System Revenue Certificates of Participation

Funding Approval: _____
Vicky McAthie, Finance Director

Alan N. Vallow
Electric Utility Director

Prepared by: Al Smatsky, Sr. Electrical Estimator

APPROVED: _____
H. Dixon Flynn, City Manager

CITY OF LODI
SPECIAL ALLOCATION REQUEST

TO: ACCOUNTING MANAGER
FINANCE DIRECTOR

DATE: May 6, 2004

FROM: ELECTRIC UTILITY DEPARTMENT

PROJECT NUMBER: 161672.1825.1700

TITLE: Fund Streetlight Completion Project, Phase IV

Description of Project	Estimated Costs
One of the City's goals is to provide streetlighting in unlit portions of the City. This project, known as the Streetlight Completion Project, is estimated to install 1,000 – 1,200 lights over a period of 3 – 5 years at a cost of \$ 3.5 – 4 million.	\$980,000

This Special Allocation will provide funding for the installation of a total of 292 streetlights, Phase IV of the project, in various areas throughout the City. A contractor, through the bid process, will install 267 of these lights (109 steel standards and 158 City furnished concrete standards). City forces will install 25 streetlights on existing wood utility poles. This Special Allocation will also provide funding for construction contract management as well as other construction work by City forces. In addition the recommended transfer will provide funding for ongoing design of Phase V and expenditures incurred to date in excess of previous funding.

It is recommended that the transfer of \$980,000 be from the Electric System Revenue Certificates of Participation.

City Council action May 5, 2004. Resolution # _____

Alan N. Vallow, Electric Utility Director

(If you need more space, use additional sheet and attach to this form)

Date of Approval:	_____	Amount Approved:	_____
COUNCIL	_____	CITY MANAGER	_____
FUND OR ACCOUNT TO BE CHARGED			
Current Budget	_____	Reprogram Funds	_____
Contingent Fund	_____	Fund Balance – G F	_____
Capital Outlay Reserve	_____	Offset by revenues	_____
CIP control account	_____	Other: (Specify)	_____
Utility Outlay Reserve	_____	_____	_____
		Account Number	_____

Accounting Manager

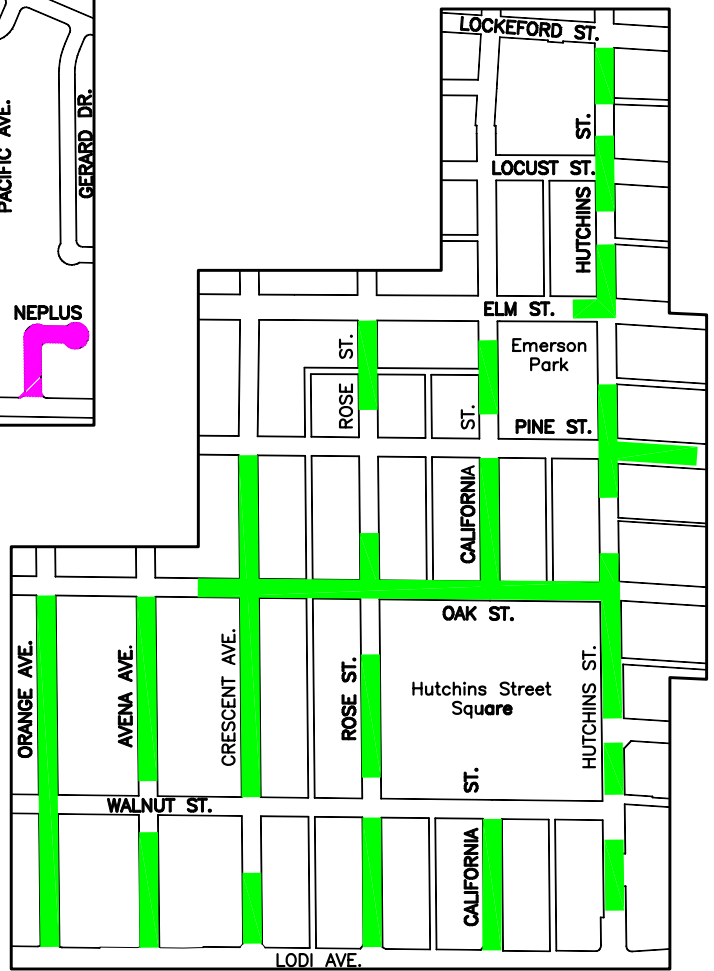
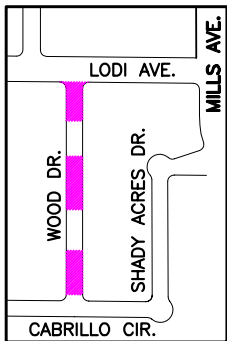
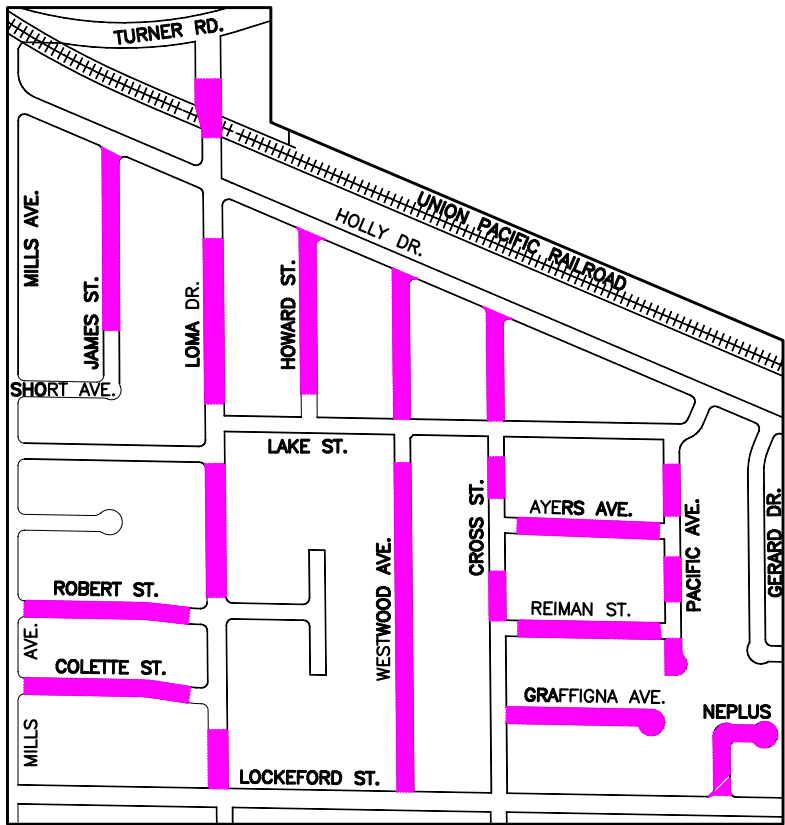
Finance Director

Submit this form in duplicate to the Finance Director, Distribution after approval will be as follows:

1) Originating Department

2) Finance Department

STREETLIGHT COMPLETION PROJECT PHASE IV



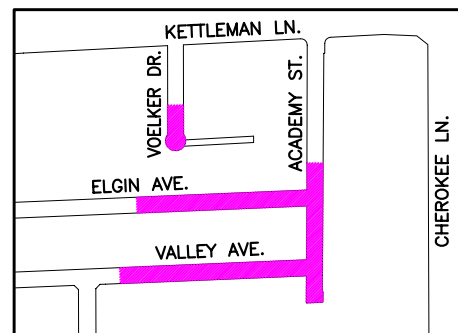
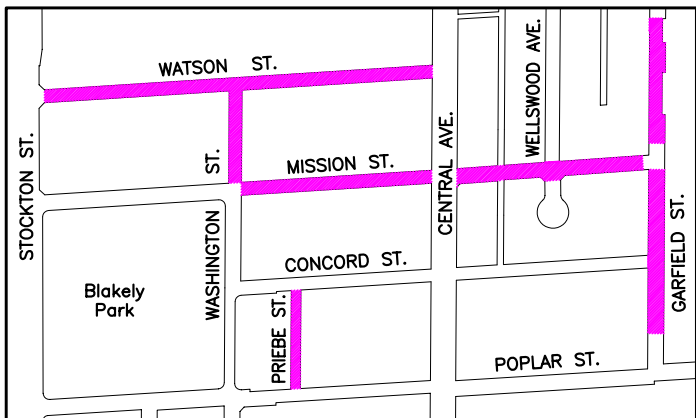
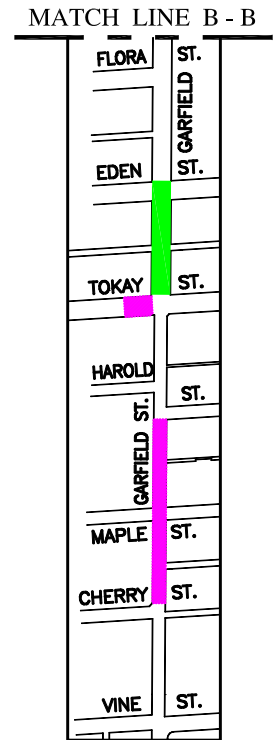
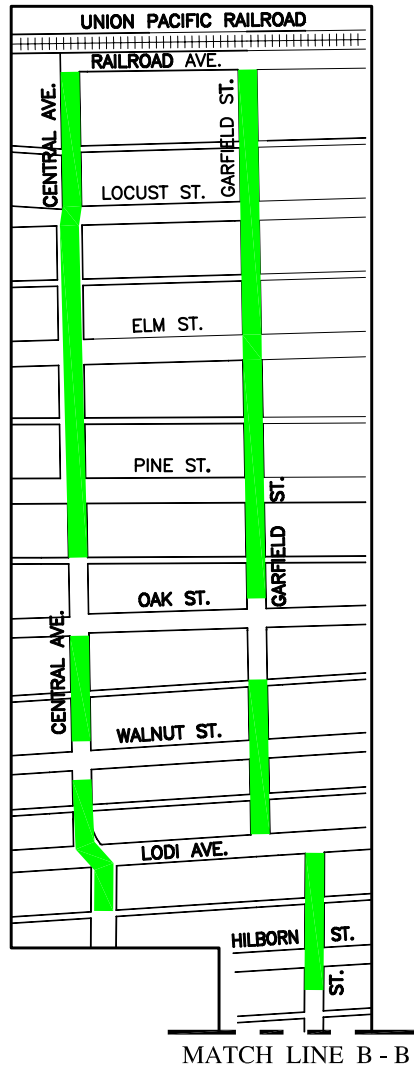
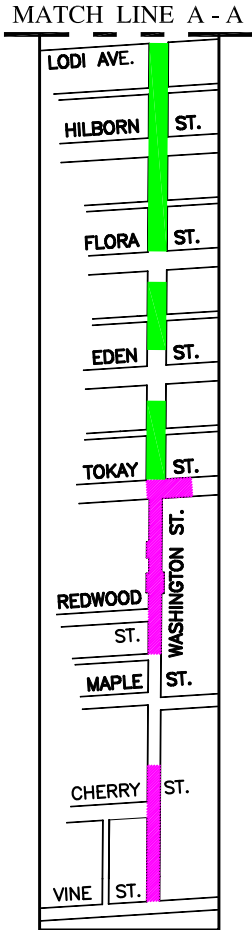
LEGEND



CONCRETE STANDARDS
STEEL STANDARDS



STREETLIGHT COMPLETION PROJECT PHASE IV



LEGEND
 CONCRETE STANDARDS
 STEEL STANDARDS





CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Traffic Safety Improvements for Stockton Street from 300 Feet South of Almond Drive to Kettleman Lane, and Appropriate Funds (\$8,000)

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That City Council adopt a resolution approving the traffic safety improvements for Stockton Street from 300 feet south of Almond Drive to Kettleman Lane, and appropriate funds.

BACKGROUND INFORMATION: At the February 24, 2004, Shirtsleeve Session, staff presented the recommended traffic safety improvements for Stockton and Maxwell Streets as a result of the Neuharth Drive/Ackerman Drive abandonment. The proposed striping includes a two-way left turn lane on Stockton Street from Almond Drive to the left turn lane at Kettleman Lane. The proposed striping conforms to the future striping and layout plan for Stockton Street. With the recent subdivision improvements on Stockton Street, the two-way left turn can be accommodated at this time. At the study session, City Council discussed the need for a crosswalk on Stockton Street at Maxwell Street. The plan includes a ladder design crosswalk, pedestrian warning signs, and handicapped ramp located adjacent to the crosswalk (see attached plan).

The work will be performed with the Almondwood Estates subdivision improvements and prior to the abandonment. A contract change order will be issued to the developer, KB Homes.

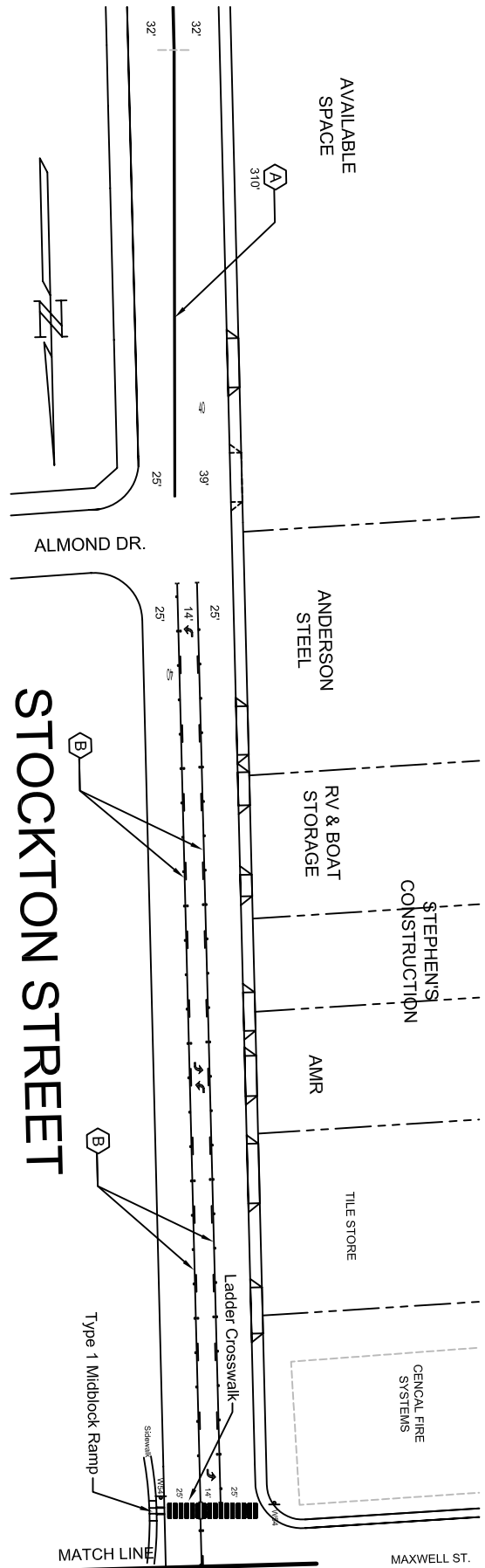
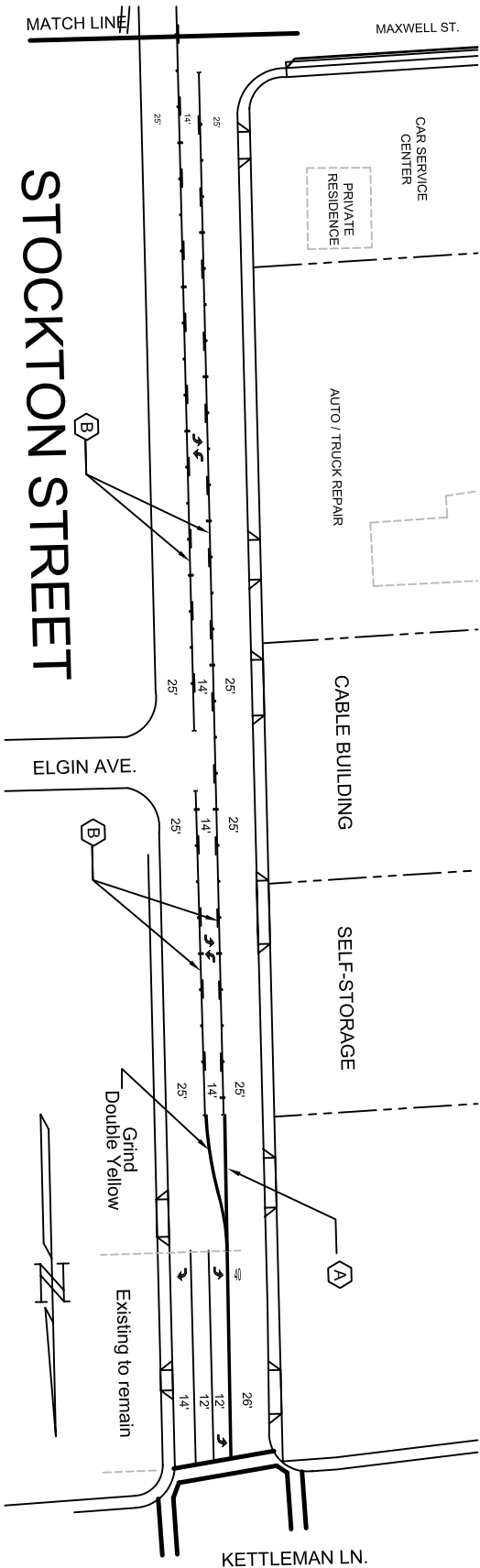
FUNDING: Street Funds/Local Impact Fees: \$8,000

Vicky McAthie, Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Paula J. Fernandez, Senior Traffic Engineer
RCP/PJF/pmf
Attachment
cc: City Engineer
Senior Civil Engineer Fujitani
Street Superintendent
Affected Property Owners/Tenants

APPROVED: _____
H. Dixon Flynn, City Manager



- NOTES:
1. Contractor shall install all ladder striping, pavement centerline, pavement legends, sign posts, sign stubs, & signs as shown on plans.
 2. All striping and pavement legends to be sprayable.
 3. All striping and pavement legends to be approved by the City Engineer.
 4. All striping and pavement legends to be approved by the City Engineer.
 5. All striping and pavement legends to be approved by the City Engineer.
 6. Contractor to construct Midblock-Type 1 handicap ramp per City of Lodi Standard Plan 1320.

Striping Legend		
Item	Description	Comments
①	Double Yellow Centerline	Detail 22
②	1-4" Yellow 1-4" Black	Detail 22
③	1-4" Yellow 1-4" Black	Detail 22
④	1-4" Yellow 1-4" Black	Detail 22
⑤	1-4" Yellow 1-4" Black	Detail 22
⑥	1-4" Yellow 1-4" Black	Detail 22
⑦	1-4" Yellow 1-4" Black	Detail 22
⑧	1-4" Yellow 1-4" Black	Detail 22
⑨	1-4" Yellow 1-4" Black	Detail 22
⑩	1-4" Yellow 1-4" Black	Detail 22
⑪	1-4" Yellow 1-4" Black	Detail 22
⑫	1-4" Yellow 1-4" Black	Detail 22
⑬	1-4" Yellow 1-4" Black	Detail 22
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Pavement Marking & Sign Legend		
Symbol	Item	Comments
①	Turn Arrow	Detail 22
②	Speed Limit Legend	Detail 22
③	Ladder Crosswalk	Detail 22
④	Handicap Crossing Symbol Sign	Detail 22
⑤	Handicap Crossing Symbol Sign	Detail 22
⑥	Handicap Crossing Symbol Sign	Detail 22
⑦	Handicap Crossing Symbol Sign	Detail 22
⑧	Handicap Crossing Symbol Sign	Detail 22
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㊿	Handicap Crossing Symbol Sign	Detail 22

ALMONDWOOD ESTATES
310' SOUTH OF ALMOND DRIVE
TO KETTLEMAN LN
STRIPING PLAN

CITY OF LODI
PUBLIC WORKS DEPARTMENT
221 WEST PINE STREET
LODI, CALIFORNIA 93240
PHONE (209) 333-6706
FAX (209) 333-6710
E-MAIL: pwrdep@lodi.gov
WEB SITE: www.lodi.gov



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RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE
TRAFFIC SAFETY IMPROVEMENTS FOR STOCKTON STREET
FROM 300 FEET SOUTH OF ALMOND DRIVE TO KETTLEMAN
LANE, AND FURTHER APPROPRIATING FUNDS FOR THE
PROJECT

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby
approve the traffic safety improvements for Stockton Street from 300 feet south of
Almond Drive to Kettleman Lane; and

BE IT FURTHER RESOLVED that funds in the amount of \$8,000 is hereby
appropriated from the Street Funds/Local Impact Fees for this project.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the
City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following
vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving City Participation in Ham Lane Fence Construction (Cardinal Street to 1,100 Feet South of Cardinal Street) and Appropriating Funds (\$1,000)

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution approving an appropriation of \$1,000 to help two property owners on Sunset Drive pay for the construction of a new block wall along Ham Lane.

BACKGROUND INFORMATION: In the fall of 1990, property owners on Sunset Drive south of Cardinal Street asked Council for City participation in the construction of a new block wall along Ham Lane in the street right-of-way. Their existing fences were in a state of disrepair and increased traffic on Ham Lane was creating additional noise in their backyards.

At the June 5, 1991, City Council meeting, a second petition was signed by the owners and presented to the Council. This petition offered to contribute \$8,550 towards a new fence. At that time, the estimated cost for the entire project was \$90,000. Council recommended that the fence project be included in the next Capital Improvement Project (CIP) list for consideration. On November 20, 1991, owners returned to Council requesting a special allocation because the CIP list had not been completed and several fences were in need of major repair work. Council again determined that it would consider the Ham Lane fence project as part of the CIP program when it was presented to Council.

The Ham Lane fence project was part of the proposed 1993/94 CIP list, but this project was not included in the adopted CIP program.

In May 1996, the Sunset Drive owners submitted another request to Council asking that the City review its records to find out whether the City had required the developer to install a more substantial fence as part of the subdivision improvements. In November 1996, Public Works Director Jack Ronsko wrote a memo to the City Manager and the City Council explaining that a meeting had been held with several of the Sunset Drive owners and agreement was reached on the following items: The City would pay for landscaping and irrigation between the fence and the Ham Lane sidewalk; the fence height would be eight feet as measured from the Ham Lane side of the fence; and the City would design the fence and pay for the difference in cost between regular block and split-face block. This agreement was based on discussions held at the November 12, 1996 City Council shirtsleeve session.

On November 12, 1997, Public Works Director Ronsko wrote a letter to Ms. Suzanne Brodehl (1121 South Sunset Drive) reiterating the items agreed to in November 1996 and also adding the following three items: The City would pay for the demolition of the existing fence; the City would waive

APPROVED: _____
H. Dixon Flynn, City Manager

Adopt Resolution Approving City Participation in Ham Lane Fence Construction (Cardinal Street to 1,100 Feet South of Cardinal Street) and Appropriating Funds (\$1,000)

May 5, 2004

Page 2

any building or plan check fee requirements involved in the fence construction; and the City would apply the same degree of participation should individual owners wish to construct a block wall instead of constructing a continuous wall along the full 1,000 lineal feet of Ham Lane. A copy of Mr. Ronsko's November 12, 1997 letter is attached as Exhibit A.

At this time, there are now two owners (1239 South Sunset Drive and 1251 South Sunset Drive) who wish to construct a block wall along Ham Lane within their property. The estimated cost to demolish the existing fence and upgrade to split-face block is \$500 per lot. The total cost for a new block wall on each property is approximately \$4,500 per lot. No landscaping between the wall and the sidewalk is included in this proposal, although the width is only about 18 inches.

While the City's current financial situation is not as strong as it was in 1997, staff is recommending that Street Maintenance funds be used to pay for the demolition of the existing fence and the increased cost to upgrade to split-face block. The 1997 letter from Mr. Ronsko suggested the use of Measure K funds to pay for this project. This year's budget does not have Measure K funds available for additional projects, so staff is now recommending the use of Street Maintenance funds. As future owners decide to build a block wall along Ham Lane, staff will return to Council with a recommendation regarding a funding source.

FUNDING: Street Maintenance (105031.7352) \$1,000

Vicky McAthie, Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley Fujitani, Senior Civil Engineer

RCP/WKF/pmf

Attachment

cc: Community Development Director
 Streets Superintendent
 Assistant Street Superintendent
 Management Analyst Areida

CITY COUNCIL

PHILLIP A. PENNINO, Mayor
 JACK A. SIEGLOCK
 Mayor Pro Tempore
 KEITH LAND
 STEPHEN J. MANN
 DAVID P. WARNER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
 P.O. BOX 3006
 LODI, CALIFORNIA 95241-1910
 (209) 333-6706
 FAX (209) 333-6710

H. DIXON FLYNN
 City Manager
 ALICE M. REIMCHE
 City Clerk
 RANDALL A. HAYS
 City Attorney

November 12, 1997

Ms. Suzanne Brodehl
 1121 S. Sunset Drive
 Lodi, CA 95240

SUBJECT: Ham Lane Block Wall

I am in receipt of your letter of November 4, 1997, in reference to the Ham Lane block wall. I understand that Rad Bartlam, Community Development Director, and Wes Fujitani, Senior Civil Engineer, met with the Sunset Drive property owners on August 7, 1997, and provided the property owners with a number of alternatives on how to proceed as a group or individually. I understand that the ways the City could participate in this project were also outlined.

The City has confirmed that Measure K funds can be used for this type of project. However, if the funds are used for a block wall, the same funds cannot be used for maintenance of City streets. It was my understanding, from past Council actions, that Council did not want to take on the full responsibilities of the wall construction. My understanding of the City's participation is as follows:

- City will pay for upgrading of the wall from a standard block to a split-face block wall.
- City will pay for demolition of existing fence.
- City will be responsible for installing the sprinkler system and landscaping on the street side of the wall and any required hard surfacing between the wall and the existing sidewalk.
- If all of the Sunset Drive homeowners were not in favor of moving ahead with the wall, the City would allow individuals to construct the City-designed wall fronting only their property. The City's participation would be the same as above.
- The City would waive any building or plan check fee requirements involved in the fence construction.

Since Mayor Pennino's name was mentioned in your letter, I am sending him a copy of this letter and your letter of November 4, 1997.

I am sorry but I do not know how else City staff can help you in this matter. If you have some specific requests, I would be happy to discuss them with you.



Jack L. Ronsko
 Public Works Director

cc: Mayor Pennino
 Community Development Director
 Senior Civil Engineer

bcc: City Clerk
 HAMILNWAL.DOC

11/12/97

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING CITY
PARTICIPATION IN THE HAM LANE FENCE CONSTRUCTION, CARDINAL
STREET TO 1,100 FEET SOUTH OF CARDINAL STREET, AND
FURTHER APPROPRIATING FUNDS FOR THE PROJECT

=====

WHEREAS, in the fall of 1990, property owners on Sunset Drive south of Cardinal Street asked Council for City participation in the construction of a new block wall along Ham Lane in the street right-of-way, as their existing fences were in a state of disrepair and increased traffic on Ham Lane was creating additional noise in their backyards; and

WHEREAS, at the June 5, 1991 City Council meeting, a second petition was signed by the owners and presented to the Council offering to contribute \$8,550 towards a new fence. At that time, the estimated cost for the entire project was \$90,000. Council recommended that the fence project be included in the next Capital Improvement Project (CIP) list for consideration; and

WHEREAS, On November 20, 1991, owners returned to Council requesting a special allocation because the CIP list had not been completed and several fences were in need of major repair work. Council again determined that it would consider the Ham Lane fence project as part of the CIP program when it was presented to Council; and

WHEREAS, the Ham Lane fence project was part of the proposed 1993/94 CIP list, but this project was not included in the adopted CIP program due to lack of available funds; and

WHEREAS, in November 1996, Public Works Director Jack Ronsko wrote a memo to the City Manager and the City Council explaining that a meeting had been held with several of the Sunset Drive owners and agreement was reached on the following items:

- 1) The City would pay for landscaping and irrigation between the fence and the Ham Lane sidewalk; the fence height would be eight feet as measured from the Ham Lane side of the fence; and
- 2) The City would design the fence and pay for the difference in cost between regular block and split-face block. This agreement was based on discussions held at the November 12, 1996 City Council shirtsleeve session.

WHEREAS, on November 12, 1997, Public Works Director Ronsko wrote a letter to Ms. Suzanne Brodehl (1121 South Sunset Drive) reiterating the items agreed to in November 1996 and also adding the following three items:

- 1) The City would pay for the demolition of the existing fence; and
- 2) The City would waive any building or plan check fee requirements involved in the fence construction; and
- 3) The City would apply the same degree of participation should individual owners wish to construct a block wall instead of constructing a continuous wall along the full 1,000 lineal feet of Ham Lane.

WHEREAS, at the present time two property owners located at 1239 and 1251 South Sunset Drive wish to construct a block wall along Ham Lane within their property; and

WHEREAS, the estimated cost to demolish the existing fence and upgrade to split-face block is \$500 per lot; and

WHEREAS, the total cost for a new block wall on each property is approximately \$4,500 per lot, and does not include landscaping between the wall and the sidewalk; and

WHEREAS, staff recommends that Street Maintenance funds be used to pay for the demolition of the existing fence and the increased cost to upgrade to split-face block since no Measure K funds are currently available; and

WHEREAS, as future owners decide to build a block wall along Ham Lane, staff will return to Council with a recommendation regarding City participation and a funding source.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve City participation in the Ham Lane Fence Construction Project, from Cardinal Street to 1,100 feet south of Cardinal Street as outlined below:

- 1) City to contribute \$500 per lot to demolish the existing fence and upgrade to split-face block;
- 2) City will waive building permit fees for the project;
- 3) The funds will be paid to the property owners upon satisfactory completion of the project as evidenced by a final building permit

BE IT FURTHER RESOLVED that funds in the amount of \$1,000 be appropriated from Street Maintenance for this project.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Specifications and Authorizing Advertisement for Bids for Compressed Natural Gas Street Sweeper for the Street Division and Authorizing the City Manager to Accept or Reject Bids, Award the Contract and Appropriate Funds (\$200,000)

MEETING DATE: May 5, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution approving specifications and authorizing advertisement for bids for a compressed natural gas (CNG) street sweeper for the Street Division and authorizing the City Manager to accept or reject bids, award the contract (up to \$200,000) and appropriate funds.

BACKGROUND INFORMATION: The 2003/2005 Financial Plan and Budget provides for the disposal of Street Sweeper Unit No. 04-105 (by trade-in or auction) and replacement with a new regenerative air sweeper. Unit 04-105, a 1990 FMC broom sweeper purchased in 1990 for \$69,600, has accumulated in excess of 51,000 miles and over \$297,181 in repair costs. The funding for the new sweeper will be 67% Wastewater Fund and 33% CMAQ grant money for the CNG conversion. Contract must be awarded prior to June 30, 2004, to take advantage of the grant money available. The cost for the CNG conversion adds approximately \$60,000 to the cost of a diesel-powered sweeper. Specifications are on file in the Public Works Department. The Fleet Committee has approved the purchase of this sweeper.

FUNDING: The money for this project will be coming from the Wastewater Equipment Replacement Fund.

Appropriation: \$200,000 (\$134,000 Wastewater Fund and \$66,000 CMAQ Grant)
Budgeted: 2003/04 Fiscal Year
(Page E-95, 2003/2005 Capital Improvement Budget)

Vicky McAthie, Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Curt Juran, Assistant Street Superintendent
RCP/CJ/dsg

cc: George M. Bradley, Street Superintendent
Frank Beeler, Assistant Water/Wastewater Superintendent
Dennis Callahan, Fleet and Facilities Manager
Joel Harris, Purchasing Agent

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING SPECIFICATIONS AND
AUTHORIZING ADVERTISEMENT FOR BIDS FOR COMPRESSED NATURAL GAS
STREET SWEEPER FOR THE STREET DIVISION, AND FURTHER AUTHORIZING
THE CITY MANAGER TO ACCEPT OR REJECT BIDS, AWARD THE CONTRACT,
AND APPROPRIATE FUNDS

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WHEREAS, the 2003-05 Financial Plan and Budget provides for the disposal of street sweeper Unit No. 04-105, and replacement with a new regenerative air sweeper; and

WHEREAS, Unit 04-105, a 1990 FMC broom sweeper purchased in 1990, has accumulated in excess of 51,000 miles and over \$297,181 in repair costs; and

WHEREAS, funding for the new sweeper will be 67% Wastewater Fund and 33% CMAQ grant money for the Compressed Natural Gas (CNG) conversion, with the only stipulation that the contract be awarded prior to June 30, 2004, in order to take advantage of the grant money available.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the specifications and authorizes advertisement for bids for the CNG street sweeper for the Street Division, and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to accept or reject the bids, award the contract, and appropriate funds in the amount of \$200,000 from the Wastewater Fund and \$66,000 CMAQ Grant for the project.

Dated: May 5, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Updates from Mayor Hansen regarding the following issues: Status of recruitment process for new City Attorney and progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation

MEETING DATE: May 5, 2004

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: That the City Council receive an update regarding the following issues: Status of recruitment process for new City Attorney and Progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation.

BACKGROUND INFORMATION: At the request of Mayor Hansen, this item is placed on the agenda to allow for a verbal update regarding the status of the above issues.

FUNDING: Not applicable

Janet S. Keeter
Deputy City Manager

JSK/si

APPROVED: _____
H. Dixon Flynn, City Manager

Comments by the City Council Members on non-agenda items